



Regional School of Public Administration (Phase 1)

A Joint Initiative of the European Union
and the OECD, principally financed by the EU



ReSPA/SC(2008)1/002-1

REPORT BY a Sigma EXPERT ON THE PUBLIC PROCUREMENT PROJECT

Report by a Sigma expert on the Public Procurement project.	RESPA/SC(2008)1/002-1
<p>In its 5th Session, the Secretary of the ReSPA Steering Committee informed the Steering Committee of the finalisation of the report on the need for training in the field of Public Procurement.</p> <p>The decision to initiate this analysis was taken at the first ReSPA meeting of the Heads of Schools of Public Administration, held in Ljubljana in June 2007.</p> <p>The ReSPA team at the OECD cooperated with Sigma as well as with the ILO-ITC in the preparation of the report. A meeting took place in November 2007 at the ILO-ITC convening Senior Public Procurement Experts from the Western Balkans region.</p> <p>The attached report was produced by Sigma, ILO and ReSPA experts and presented and discussed on the occasion of the November 2007 meeting.</p>	
<p><i>Committee action</i></p> <p>The Steering Committee invites the Chair to:</p> <ul style="list-style-type: none">○ Identify funding mechanisms for project implementation in 2008-2009, following the IPA programming cycle and procedures.	

**TRAINING IN PUBLIC PROCUREMENT
IN THE WESTERN BALKANS**

December 2007

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FOREWORD

At the First Meeting of the Heads of Schools and Institutes of Public Administration of the Regional School of Public Administration (ReSPA) signatories, held in Ljubljana in June 2007, the ReSPA team in OECD was asked to prepare a report proposing possible training initiatives in public procurement in the Western Balkan region. Such a report would identify training needs, formulate a training strategy and action plan, and elaborate generic training curricula to be implemented as regional or national initiatives.

This initiative is a logical continuation of Sigma support in the second half of the 1990s for the preparation of a public procurement manual and the elaboration of a training of trainers system in public procurement. This work, which was carried out in co-operation with the ILO Training Centre, targeted EU candidate countries. Both of these initiatives were highly appreciated: The ILO/SIGMA Public Procurement Manual was translated into the national languages of several of these countries or otherwise used as a basis for the production of national training materials. The Training of Trainers System has been successfully implemented in many countries.

To elaborate the report on possible training initiatives in public procurement for the Western Balkans, the ReSPA team established an expert group, composed of: Mr. Peder Blomberg (Sigma), Mr. Piotr-Nils Górecki (Sigma), Mr. Marian Lemke (ReSPA), and Mr. George Jadoun (ILO/ITC). A number of procurement specialists from the public and private sectors and from academia in EU Member States were invited to be members of the group: Mr. Yves Allain (France, Ministry of Finance), Mr. Karl Krall (Sweden, Affairs Concept), Ms. Eliza Niewiadomska (Poland, Computerland SA), Mr. Glenn Fletcher (UK, Achilles), and Mr. Martin Trybus (Germany, professor at the University of Birmingham, UK). Invitations were forwarded to all central public procurement institutions in the region (public procurement offices/agencies). Finally, representatives of all seven countries/entities were included: Ms. Reida Shahollari (Head, Training Department, Public Procurement Agency, Albania); Ms. Đinita Fočo (Director, Public Procurement Agency, Bosnia and Herzegovina); Ms. Lidija Gredičak (Senior Adviser, Public Procurement Office, Croatia); Ms. Mare Bogeve Micovska (Director, Public Procurement Bureau, former Yugoslav Republic of Macedonia); Ms. Katarina Radović (General Secretary, Commission for Control of Public Procurement Procedure, Montenegro); Mr. Borisav Knežević (Co-ordinator, Public Procurement Office, Serbia); and , Mr. Ilaz Duli (President, Public Procurement Regulatory Commission, Kosovo under UNSCR 1244¹).

All seven national experts submitted at the beginning of September 2007 a description of the current situation in the area of training in public procurement in their country/entity (based on questionnaires prepared and distributed in August). Detailed information on the current situation in each country/entity is provided in the annex to this report. These descriptions are based on the information submitted by national experts in response to the survey.

All national experts were also asked to communicate their ideas for future regional initiatives; a summary of their responses is also attached in the annex.

International experts, ReSPA, Sigma and ILO staff met in Paris on 21 September 2007 to discuss the structure and content of the report (and the time frame for its preparation). The first draft of the report was delivered to all members of the expert group at the beginning of November. The draft was discussed with the entire expert group at a meeting in Turin (23 November). All members provided valuable comments, which were utilised in the preparation of the final draft version of the report, which was subsequently reviewed by an independent training expert, Mr. Jacek Królikowski. The work of the expert group was supported by Ms. Aleksandra Bogusz, project assistant in Sigma.

¹ In accordance with UN Security Council Resolution 1244 (UNSCR 1244), since June 1999 the province of Kosovo has been governed by the UN Interim Administration Mission in Kosovo (UNMIK). In this report, Kosovo under UNSCR 1244 will hereafter be referred to as "Kosovo".

The final version of the report has the following structure:

1. Executive summary, briefly presenting the main findings
2. Main body of the report, consisting of two parts:
 - a) General description and overall assessment of the current situation in the area of training in public procurement in the Western Balkans
 - b) Project strategy, describing in detail the proposed actions structured into five steps, and discussing risk assessment and risk management
3. Annexes:
 - I) – Alternative analysis - discussion of variants that led to the formulation of the final project strategy
 - II) – Public procurement training systems – country/entity information:
 - a) Albania
 - b) Bosnia and Herzegovina
 - c) Croatia
 - d) Former Yugoslav Republic of Macedonia
 - e) Montenegro
 - f) Serbia
 - g) Kosovo
 - III – Opinions of national experts on topics and organisation of future training
 - IV – Outline of proposed curricula
 - V – Proposed project work plan

EXECUTIVE SUMMARY

All seven countries and entities in the Western Balkans region – Albania, Bosnia and Herzegovina, Croatia, former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo – are in the process of building their public procurement systems in order to meet EU requirements and international good practice.

To date the reform of public procurement systems has placed the main emphasis on ensuring legal and formal compliance with procurement regulations, while operational and practical aspects of public procurement have often been neglected. A redirection of focus towards support to contracting entities is therefore urgently needed.

In addition, due to recent changes in procurement legislation in all countries/entities (required by the harmonisation with the EU), all procurement specialists need to be trained in the new procedures and requirements. As a result, a proper system of training in public procurement throughout the region is even more important now.

Several training activities have been undertaken in the region in the last few years, all with the support of technical assistance and twinning projects (financed mainly by the EU and USAID). However, all existing materials need to be updated due to legislative changes.

All countries/entities in the region have established administrative structures that are responsible, *inter alia*, for the organisation of a training system in public procurement. However, available resources are usually scarce.

Therefore, in order to contribute to increasing the efficiency of public procurement functions, this report proposes a sustainable procurement training strategy at regional and national levels, filling an important gap in the public procurement systems of the countries/entities in the Western Balkans.

Implementation of the proposed strategy should lead to improved professionalism at the operational level as well as to the establishment of a group of community of practice, thereby increasing and enhancing regional co-operation in the area of public procurement.

The proposed strategy comprises the following main steps and expected outputs:

Step 1 (at national level)

- Select, in co-operation with public procurement offices/agencies, national training institutions and candidate trainers (10-25 from each country/entity)
- Carry out survey to assess current training institutions and their capacities

Step 2 (at regional level)

- Develop generic competency-based training modules in public procurement (review panel comprised of national experts from the region together with EU Member State experts)

Step 3 (at regional level)

- Deliver training of trainer courses in three stages for about 120-150 participants from the region (five weeks altogether)
- Establish a help-desk to assist trainers
- Set up an online course
- Organise an examination at the end of the course
- Repeat the course 4-5 times

Step 4 (individually for each country/entity)

- Localise training modules (translation + adaptation to the local legal system)
- Develop a national training strategy
- Provide support to trainers and training institutions for first 1-2 years of operation

Step 5

- Certify national trainers following observation/assessment period

Expected Outputs

The implementation of the project should produce:

- Generic competency-based training materials (modules) in public procurement (in English);
- Seven sets (one for each country/entity) of national training materials in local languages (adapted to local legal systems);
- Network of 120-150 certified national trainers (group of community practice) in public procurement (15-25 per country/entity);
- Network of training institutions;
- National training strategies for public procurement training in all countries/entities;
- Capacity to implement, maintain and update the system.

Key prerequisites for implementation of the training strategy are the continued commitment of public procurement offices/agencies in the region to the objectives of public procurement reform and the readiness of these institutions to assume their roles in support of the activities of this project.

PART I

**PUBLIC PROCUREMENT TRAINING SYSTEMS
IN WESTERN BALKAN COUNTRIES/ENTITIES**

A. IMPORTANCE OF PROFESSIONAL DEVELOPMENT FOR A SOUND PUBLIC PROCUREMENT SYSTEM

Delivering effective and efficient procurement services is a demanding task. Procurement professionals control the expenditure of a substantial percentage of the Gross National Product and exert considerable power in determining the quality of public services. Enormous investment needs in the region and the perspective of the availability of increased EU funds make the public procurement system even more significant. Undeniably, procurement is a serious business with far-reaching consequences.

It is important to understand that the quality of public procurement is directly related to the professionalism of the procurement workforce. The organisation of public procurement is a challenging task that becomes even more difficult in the circumstances of today's Western Balkans – newly democratic states with an emerging market economy. To perform this task well requires specialised knowledge and skills. While there is evidence that contracting authorities are beginning to recognise the importance of procurement and are thinking about creating a role within their bureaucracies for the procurement discipline, there remains a significant gap in the process of building procurement functions as a professional and qualified service. Nevertheless, building a professional procurement workforce in the region will benefit the individuals involved, the purchasing entities they serve and the countries as a whole. The increased efficiency of the public procurement system and the improved effectiveness of public purchases will far outweigh the time and cost invested.

The fundamentals of sound public procurement systems in the region were established in recent years. All of the countries/entities in the region have adopted public procurement regulations based on international standards. Central public procurement offices/agencies to support and monitor the implementation of the public procurement systems have been established in all seven countries/entities.

However, a great deal remains to be done to achieve fully satisfactory results in public procurement reform. Despite the efforts of legislators and governments, far too often public procurement regulations are not followed properly, and public procurement practice is non-competitive.

According to the evidence available, the public procurement systems of the Western Balkans do not provide value-for-money in terms of procurement practice in conformity with the requirements of EU law and international good practice. This situation will lead to problems in the overall EU accession process of these countries and also in connection with the role of these procurement systems in awarding contracts funded by the EU. This situation is caused by ignorance, corruption, and undue political influence. A sound public procurement training policy addresses all of these causes since it produces a skilful workforce that is aware of the consequences of an inefficient procurement system.

Focusing on legislation and institution-building, although necessary, is not enough. To make the process of reforming public procurement systems successful, a strong third pillar is required – the professional development of procurement functions and staff to implement procedures in the field and enable the timely provision of a wide variety of public services and the development of public infrastructure.

Setting up a sustainable training system for public procurement officials and promoting a continuous learning culture within the public procurement community in the Western Balkans – the core ideas of the project – are in line with EU policies concerning training and education introduced by the Lisbon European Council and subsequently reinforced by the Stockholm European Council and the Copenhagen Declaration. This learning culture contributes to the practical implementation of a lifelong learning approach in a particular sector of the public administration, but it may also indirectly influence other sectors, promoting high quality standards in curriculum development and professional development of trainers. It follows the provisions of the Copenhagen Declaration, which underlines that the key principles of EU policy include *“promotion of cooperation in quality assurance with*

particular focus on exchange of models and methods, as well as common criteria and principles for quality in education and training and giving attention to the learning needs of teachers and trainers within all forms of education and training”.

B. PUBLIC PROCUREMENT IN THE WESTERN BALKANS – CURRENT SITUATION

Public procurement remains a relatively new concept in the Western Balkans. The modern, market-oriented regulations on how public institutions acquire goods, works and services became possible only after the political and legal changes that began in 1989/1990.

In 1990 most countries/entities adopted regulations on public procurement procedures based on international standards (very often modelled on the UNCITRAL Model Law on Procurement of Goods, Construction and Services).

Recently, in connection with the obligations related to negotiations with the European Union, all countries/entities in the region have started the process of reshaping their public procurement regulations in order to meet EU standards and requirements. In 2006-2007 all governments in the region (with no exception) adopted drafts of completely new public procurement laws (Albania, Croatia, former Yugoslav Republic of Macedonia and Montenegro) or proposals of comprehensive amendments to existing regulations (Bosnia and Herzegovina, Serbia and Kosovo). Most of the drafts have already been adopted by national parliaments (Montenegro – July 2006, Albania – November 2006, Kosovo – February 2007, former Yugoslav Republic of Macedonia – November 2007).

In all cases the changes in primary legislation have resulted in subsequent changes in secondary legislation (including standard tender documents and standard forms).

Changes in the legislative framework have usually been numerous and deep. The new EU-harmonised public procurement procedures are (in most cases) very different from those regulated by previous legislation. Therefore all procurement officers in all countries/entities need to be retrained. The wave of training on a massive scale should support the entry into force of new regulations. Most of the training materials that had been drafted under the old regulations have become (partially) obsolete.

As a result of the current wave of legislative changes in the region, new training in the area of public procurement is urgently needed.

The scale and scope of trainings required in the area of public procurement is determined by various factors.

a) Large number of contracting authorities obliged to follow public procurement law

Practically all countries/entities in the region have now established fully decentralised public procurement systems whereby all procurement activities are carried out directly by the public institutions concerned (with no central purchasing agency that would buy centrally on behalf of a number of public institutions).

Only in Kosovo may the Public Procurement Agency act as a central purchaser of certain products and services for all governmental agencies (but in reality it quite rarely does so). In Albania the Public Procurement Law provides for the establishment of a central purchasing body, but to date no such institution has been created.

The estimated number of contracting entities, including self-governments, obliged to follow public procurement regulations (based on data delivered by national experts from public procurement offices/agencies) is as follows:

- Albania – 1700
- Bosnia and Herzegovina – 2200
- Croatia – 4500
- Former Yugoslav Republic of Macedonia – 1200
- Montenegro – 620
- Serbia – 12,000
- Kosovo – 140

The total estimated number of contracting authorities amounts to 23,000 (with the largest numbers in Serbia and Croatia).

The above estimate looks conservative – in some countries/entities (Montenegro and Kosovo) only some of the contracting authorities are registered on the official lists. The actual number of contracting authorities in the region is probably slightly higher.

One could estimate that the minimum number of qualified procurement officers employed in contracting institutions in the Western Balkans should probably easily exceed 40,000. The number of people to be trained should be significantly higher due to the instability of employment in the public sector in the Western Balkans.

These figures include only procurement experts working in the public sector in “public procurement departments/units” on the award of public contracts (preparation of tender documents, conduct of procedures). They do not include other persons in the public sector: managers of contracting authorities, judges (in administrative, civil or special courts, depending on the country-specific legal situation), auditors and monitors, etc. Neither does this estimation include economic operators that are also subject to public procurement law when participating in public tenders.

The huge number of people involved professionally in public procurement processes affects the choice of method for the organisation of regional training assistance.

b) Complexity of public procurement regulations

There are also certain features of some public procurement laws in the region that additionally increase the demand for qualified public procurement specialists.

In most public procurement systems in the region the thresholds for application of the full procedures are much lower than the EU thresholds (for example, for works/goods and services: Bosnia and Herzegovina – 30,000/15,000 EUR, Montenegro – 30,000/10,000 EUR, Serbia – 30,000 EUR, Kosovo – 10,000 EUR). Low thresholds imply that all contracting authorities, even the smaller ones, have to deal with the highly regulated public procurement procedures quite often (on a daily basis). Usually there are several contracts that every contracting authority has to award every year using the procedures regulated by law. Consequently most contracting authorities (if not all) have to hire procurement specialists as permanent staff (the practice of using external consultants is not common).

Many procurement regulations in the Western Balkans are complex and they often lack sufficient flexibility, which may negatively affect the operational environment, in particular the degree of discretionary power of contracting authorities to optimally manage the procurement process as a function of their own strategies and needs.

Most public procurement regulations in the region provide for:

- Mandatory (or preferred) use of open procedures; recourse to other procedures is difficult and available only in exceptional circumstances, sometimes even requiring the prior consent of the public procurement office/agency;
- Mandatory establishment of tendering committees for the conduct of procedures;
- Mandatory use of standard tender documents and standard models of contracts;

- Long-term limits for the submission of tenders, and limited possibilities of shortening these limits;
- Complex selection criteria, and complicated, rigid and bureaucratic requirements regarding documents to be submitted by economic operators;
- Mandatory public opening of bids;
- Requirement of at least two (or three) legally acceptable offers to validate the whole procedure;
- Severe administrative fine for any violation of the rules.

c) Inefficient procurement operations and practice

There is evidence that many contracting authorities still have to address significant problems in connection with the practical aspects of implementing existing legislation. Procurement officers often lack basic skills and knowledge in managing public procurement operations.

On the other hand, as Sigma's assessment reports on public procurement systems in the Western Balkans demonstrate, there is a tendency to interpret and apply the law too strictly and formalistically. Frequently, good tenders are rejected or procurement procedures are cancelled for small formal reasons without taking into consideration the economic implications or the overall negative effects of such decisions on the efficiency of the public procurement process.

At least some of these negative tendencies could be remedied by proper training.

C. TRAINING ACTIVITIES TO DATE

a) Legal and institutional training set-up

All countries/entities in the region have established central procurement institutions responsible for the implementation of the public procurement system. The most common model consists of two separate institutions: public procurement office/ agency and procurement review body/ commission.

A public procurement office/agency is usually a part of the government administration – either as an independent institution responsible to the government (for example, Public Procurement Agency in Albania and Bosnia and Herzegovina, Public Procurement Office in Croatia, Serbia, and Public Procurement Regulatory Commission in Kosovo) or as a unit located within a ministry (Public Procurement Bureau within the Ministry of Finance in the former Yugoslav Republic of Macedonia).

A procurement review body/commission usually exists as a separate quasi-judicial (often collective) body (nominated by and responsible to parliament) dealing with appeals filed by dissatisfied tenderers (Procurement Review Body in Bosnia and Herzegovina and Kosovo, State Commission for Supervision of Public Procurement Procedure in Croatia, and State Commission for Control of Public Procurement in Montenegro).

Public procurement offices/agencies are responsible for the overall development and implementation of the public procurement system: policy-making, drafting legislation, monitoring, collection of statistical data, and sometimes publication of procurement notices as well.

Practically all central offices in the region are also responsible for professional development in the area of public procurement: elaboration and publication of manuals and guidelines, provision of technical assistance and advice to contracting authorities (sometimes to economic operators as well), preparation of training modules and materials, and organisation of training.

Some central procurement offices in the region have established within their structures separate units for the organisation of training: Training and Integration Sector in the Public Procurement Agency (PPA) in Albania, Training Office in the PPA in Bosnia and Herzegovina, or Training Department in the Public Procurement Regulatory Commission (PPRC) in Kosovo.

Not a single office in the region has been given sufficient resources to organise on its own large-scale training for the country's procurement officers. There is therefore a need for co-operation and for support from other institutions.

At least five possible partners for public procurement offices/agencies in the organisation of training for the procurement community could be listed:

- foreign assistance projects;
- civil service agencies and governmental educational institutions providing training for civil servants;
- universities;
- private training and consultancy firms;
- NGOs (for example, chambers of commerce in the case of training for economic operators).

In all countries/entities in the region public procurement reform has recently benefitted from significant support of various international donors – most often in the form of technical assistance and twinning projects financed by the EU CARDS funds, but also from USAID (Albania, Bosnia and Herzegovina, former Yugoslav Republic of Macedonia, Montenegro) or SIDA (Montenegro).

Foreign consultants, usually in co-operation with national experts from training departments of public procurement offices/agencies, have been responsible for the following:

- elaboration of curricula for training;
- elaboration of training materials, which have often been made available on Internet;
- organisation and delivery of training (for staff of public procurement institutions and for procurement practitioners, in both public institutions (contracting authorities) and the business community).

Using significant resources, assistance projects in some countries were able to organise large-scale training for virtually every contracting authority in the country (Albania – 750 participants trained by MCATA, a USAID project; Bosnia and Herzegovina – 2,700 participants of training sessions organised by the EU technical assistance project; former Yugoslav Republic of Macedonia – 300 procurement officers trained; Montenegro – 270). In most cases the training was delivered shortly after the introduction of new public procurement legislation as a part of a “promotional campaign”. Those training sessions were relatively short (one-two days) and provided only a brief introductory overview of new regulations². Such training constituted a good tool for providing information on new regulations and procedures, but it was not sufficient to ensure professionalism in the application of the new public procurement rules. Financed by external assistance projects and delivered mainly by foreign experts, this training could not (and was not intended to) function as a model for a national sustainable system of training for procurement specialists.

In some countries/entities the public procurement offices/agencies may rely on governmental structures established for organising and delivering educational services for civil service. The Kosovo Institute for Public Administration (KIPA) is obliged, by the Public Procurement Law, to organise every year at least two 10-day training sessions for public procurement officers. KIPA provides facilities, but the Training Department of the Public Procurement Regulatory Commission is responsible for the elaboration of curricula, preparation of training materials and hiring of lecturers. In Croatia since May 2007 training for procurement officers (as well as their certification process) is conducted by a governmental agency – the Centre for Vocational Training and Professional Improvement of Civil Servants (in co-operation with the Public Procurement Office). The PPO elaborates the training programme. A similar agency within the Ministry of Interior in Albania –

² Typical items on the agenda of this short-term training: basic principles of the new public procurement legislation; new public procurement legislation; basic public procurement procedures; new central public procurement institutions. Each presentation lasts approximately one to one and a half hours.

Training Institute of the Public Administration – organises three-day courses on public procurement procedures (with the presentations delivered by experts from the Public Procurement Agency).

Usually for this model of co-operation the training institution provides training facilities and accommodation for participants, whereas the public procurement office/agency organises the public procurement “know-how” – curricula, training materials, lecturers. The public procurement office/agency does not bear the real cost of training for procurement officers, as most of the necessary financing comes from the agency specialised in (and specifically established and funded for) the professional development of civil servants.

In several countries/entities in the Western Balkans the traditional educational institutions have also become active in training in public procurement. At least three universities in the region have already started, or are planning to start, masters courses in public procurement: University of Tirana (Albania), University of Tuzla (Bosnia and Herzegovina), and University of Business and Technology in Pristina (Kosovo). These courses have been prepared in co-operation with public procurement offices/agencies or technical assistance projects (or, in the case of the masters course organised at the university in Pristina, with the University for Technology in Vienna). Those courses are of much longer duration and go into detail. However, the number of participants is limited (for example, 23 participants in Kosovo at the moment).

Co-operation with private training and consultancy firms is still only a theoretical possibility in the Western Balkans. Although there are private companies specialising in training in public procurement (Albania, Bosnia and Herzegovina, Croatia), for some reason the public procurement offices/agencies remain reluctant to co-operate with them.

NGOs could perhaps be helpful in educational activities aimed at other participants within the public procurement process – such as chambers of commerce in the case of training organised for economic operators participating in public tenders.

b) Training materials

Many interesting and valuable explanatory and interpretative materials on public procurement regulations have been produced in the region in recent years. Some examples:

- Two comprehensive detailed manuals on public procurement procedures – one for contracting authorities and the other for economic operators – were published in Croatia in 2006 and 2007. These extensive publications (320 and 260 pages respectively) present in detail the legal and institutional framework of the Croatian public procurement system, from the perspective of both contracting authorities organising public tenders and economic operators interested in participating. Many diagrams and examples provide practical guidelines. The manuals also contain all relevant legal texts: the Public Procurement Law (adopted in 2002) and all secondary legislation (including the standard forms). The manuals were written and published with the assistance of USAID and the CARDS twinning project. Both manuals are available (in the Croatian language only) on the website of the Public Procurement Office (www.javnanabava.hr).
- A number of interesting publications on public procurement were published between 2005 and 2007 by the EU Public Procurement Project in Bosnia and Herzegovina, including a detailed commentary on the BiH Public Procurement Law (published in both the local language and English) and several publications (in the local language) on the public procurement system in the EU – the EC Directives with a comprehensive introduction (commentary), collection of the relevant judgments of the European Court of Justice, and collection of articles of international experts on public procurement law and policy in Europe. All of these publications are available in electronic form on the website of the Public Procurement Agency (www.javnenabavke.ba).
- A short manual (15 pages only) on public procurement was prepared by the Public Procurement Bureau in the former Yugoslav Republic of Macedonia in co-operation with the

EU-funded technical assistance project (available in the local language on the website of the Bureau: <http://javni-nabavki.finance.gov.mk>).

- A set of manuals discussing various aspects of public procurement procedures was prepared by the EU public procurement technical assistance project in Kosovo (and adopted officially by the PPRC in 2005). Manuals (mostly in the form of interpretation and commentary on various pieces of public procurement legislation) are available (in Albanian, Serbian and English) on the PPRC website: www.ks-gov.net/prokurimi.
- Guidelines on public procurement procedures, based on EU practice, and a glossary of public procurement terms, both prepared by a CARDS 2002 project in Albania, are available on the website of the Albanian PPA: <http://www.app.gov.al/>.

The above materials are of good quality and may therefore have served their purposes well. However, in terms of their usability for current training needs, the following remarks should be noted:

- Due to recent changes in public procurement legislation in the region, all publications discussed above have now become outdated – new public procurement regulations have been adopted or existing public procurement laws have been changed significantly since the elaboration of these materials.
- All of the above publications were written exclusively or mainly by international experts within the framework of various EU and USAID projects. All of those projects have now terminated and the authors (international experts) are no longer at the disposal of the local public procurement institutions.
- Local public procurement institutions apparently do not have sufficient resources and capacity to carry out the work and update the materials by themselves without external support.
- Some of the materials are quite laconic and basic in nature.
- The above-mentioned materials tend to focus on the legal requirements of public procurement procedures (and therefore serving more as commentaries on the law and secondary legislation). The business aspect of the public procurement system seems to have been neglected.
- The above publications were not primarily conceived as training modules for use in training sessions. They were rather created as manuals and guidelines to assist procurement officers (and procurement experts in business) in their daily operations.

A number of complete curricula for courses in public procurement have been developed:

- Curriculum for university course in public procurement prepared by the technical assistance project in Bosnia and Herzegovina in 2005 (currently being implemented by the University of Tuzla);
- Curriculum for training of trainers in public procurement adopted by the Public Procurement Office in Croatia (implemented together with the Centre for Vocational Training and Professional Development of Civil Servants, in co-operation with CARDS twinning projects); Curriculum published on the website of the Public Procurement Agency in Albania (<http://www.app.gov.al>), which looks like a short introduction rather than a full detailed presentation of the system.

Some procurement offices/agencies publish on their websites various training materials (presentations in Power Point used during the training sessions) – Bosnia and Herzegovina, former Yugoslav Republic of Macedonia, Montenegro, and Serbia.

However, not a single country/entity in the region has developed and published a complete set of systematic training modules – i.e. materials presenting the public procurement process in detail and intended as materials to be used in training courses for procurement officers.

c) Organisation of training – Training of Trainers (TOT)

Several countries/entities in the region recently implemented special programmes for the training of trainers in public procurement.

In Albania the MCATA (USAID project), in co-operation with the Public Procurement Agency, organised training for trainers in public procurement during the first half of 2007. After a three-day intensive course, 23 participants were certified as “trainers of public procurement officials”.

In Bosnia and Herzegovina 71 trainers were trained at the beginning of 2006 (duration of the course: three weeks). The training was performed by an EU technical assistance project. All trainers who successfully passed the final examination were awarded certificates, and they are now providing training for procurement officers, under the supervision of the Public Procurement Agency.

In Kosovo an EU-funded project, in co-operation with the Kosovo Institute for Public Administration and the Public Procurement Regulatory Commission, organised between September 2006 and March 2007 a training programme for trainers in public procurement. Of the 65 participants, 40 were successful and have been certified (licensed).

In all cases the training of trainers has been organised by technical assistance projects, typically in co-operation with a national public procurement office/agency.

d) TOT initiatives implemented to date in the region – Reasons for lack of sustainability

Since the courses for trainers were quite short in some countries (for example, only three days in total), the professional quality and depth of knowledge acquired could be subject to dispute.

Usually the support given by projects to trainers does not exceed the duration of the initial training course. The national institution responsible for maintaining the list of trainers usually only collects information on the training that they deliver. To date no follow-up course for trainers has been organised in any country/entity.

In general, typical problems related to the sustainability of the training-of-trainers courses organised in the region are the following:

- Lack of stable financial foundations of the system (short-term financing through technical assistance projects);
- Poor design of the curricula (greater emphasis on subject matter rather than on the development of skills related to training preparation and delivery methodology);
- Lack of opportunities to practice training skills during the course and to receive comprehensive feedback;
- Lack of institutional space for graduates of TOT courses (e.g. institutional, long-term relations with public training institutions);
- Lack of opportunities for further professional development in the role of trainer and lack of any quality check of the training services provided (including lack of trainers' professional associations, accreditation systems, advanced level courses);
- Lack of continuity in the performance of functions for which trainers have been trained (high turnover) due to political reasons, weak legal framework, absence of career incentives, and poor human resources management.

e) Summary – training needs in public procurement in the Western Balkans

As shown by Sigma's assessments of public procurement practices in the region, the emphasis so far has generally been placed on ensuring legal and formal compliance with procurement regulations, while operational and practical aspects of public procurement have been neglected. A redirection of focus towards support to contracting entities is therefore urgently needed.

In addition, due to recent changes in procurement legislation in all countries/entities, all procurement experts need to be trained in the new procedures and requirements. As a result, a proper system of training in public procurement throughout the region is even more important now.

Several training activities have been undertaken in the region in the last few years, all with the support of technical assistance and twinning projects (mostly EU and USAID). The same support has enabled the implementation of a number of training-of-trainers initiatives, although the quality of some of the courses could be put in question and their contribution to the sustainability of the training market seems limited.

Existing educational materials are often basic and tend to focus on legal requirements only, neglecting the economic aspects of the procurement process. Without exception, all existing materials need to be updated due to recent legislative changes.

All countries/entities in the region have established administrative structures responsible, inter alia, for organising a system of training in public procurement. However, resources available are usually scarce.

PART II

**STRATEGY FOR CAPACITY-BUILDING IN PUBLIC
PROCUREMENT FOR THE WESTERN BALKANS**

A. STRATEGY FOR CAPACITY-BUILDING IN PUBLIC PROCUREMENT FOR WESTERN BALKAN COUNTRIES/ENTITIES

The assessment of the current situation of public procurement training systems in Western Balkan countries/entities, presented in Part I of this document, indicates that there is a need for “institutionalising” sustained human resource development efforts in the area of public procurement training in each of the beneficiary countries through a “*regional initiative*”, as described in this part of the report.

To address current deficiencies in the performance of public procurement systems in the seven Western Balkan countries/entities, the proposed strategy of this project/initiative is to:

- i) Institutionalise public procurement training in the region through active and sustained involvement of “anchor training institutions” and public procurement offices/agencies; and
- ii) Establish core teams of proficient national trainers who are associated with the “anchor institutions” in training delivery and the continuous development and updating of training curricula.

The overall objective of this project/initiative is as follows:

- To contribute towards upgrading the operational performance and professionalism of public procurement systems in Western Balkan countries/entities by putting in place sustainable training systems in public procurement that are in compliance with EU public procurement legislation and practices and with related national legislation.

The immediate objectives / project purposes of the initiative are as follows:

- To develop public procurement training materials (modules) that transmit knowledge of the legal and business processes and corresponding professional skills;
- To establish a core team of national procurement trainers capable of customising these modules to fit national, legal and administrative contexts; and
- To subsequently engage in the sustained delivery of face-to-face and online modalities of procurement training, in close collaboration with a recognised network of anchor training institutions.

B. PROJECT STRATEGY

The optimal strategy for implementation of this initiative, which has been developed through study and analysis of potential alternatives (see annex for details), can be outlined as follows:

a) **Step 1 – Selection of training institutions and trainers and collection of detailed country information**

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| <ul style="list-style-type: none"> • Select national training institutions and candidate trainers (10-25 from each country/entity) in co-operation with public procurement offices/agencies • Undertake surveys to assess the current training situation and the capacity of national training institutions |
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Selection of national training institutions and national candidate trainers

Public procurement offices/agencies (PPOs) will be responsible for nominating the candidate trainers according to agreed objective criteria. The final decision on candidates will be made at regional level following an examination and interview before an admission panel created by the body implementing

the project. PPOs will also make efforts to establish long-term, sustainable working relations with the trainers setting up a professional network at national level and support their participation in regional initiatives for the professional development of trainers.

At least one training institution for every jurisdiction of the region will be selected as the “anchor” institution for disseminating public procurement training on a continuous basis. This institution can be the body designated by law to handle this task, e.g. civil service academies or schools of public administration on their own or in association with universities or other institutions of higher learning, depending on the circumstances.

PPOs, in co-operation with the body implementing the project, will select the most appropriate “anchor” training institution, i.e. the institution with the capacity and experience to guarantee organisation of the training courses (detailed criteria for training institutions will be based on survey findings). Depending on the specific conditions in a given country/entity, training institutions could be from the public, private or NGO sector. In some countries/entities such co-operation between PPOs and public training providers already exists and could be easily adjusted to the requirements of this project. In some countries/entities such co-operation with an anchor training institution for the civil service is already stipulated by law. Co-operation between PPOs and training institutions should be based on long-term commitment so as to ensure sustainability of the training system.

The criteria for selection of anchor training institutions include the following:

- Reputation of the institution (including management systems and financial status, etc.);
- Expertise in public administration and possibly in public procurement training (existing courses in public procurement, library facilities including books on public procurement, etc.);
- Connections to the public procurement community (joint research, participation in professional networks, etc.);
- Adequate facilities (classrooms, computer labs, etc.);
- Geographical location of the institution (i.e. easy access to the institution from all parts of the jurisdiction).

With regard to candidate trainers, a competent group of candidates for the “train the trainers” programme is of crucial importance for the quality, success and sustainability of national procurement training activities in the seven Western Balkan countries/entities.

The “entry profile” of potential candidates will therefore be described by the project and related selection criteria will include, inter alia, the following:

- Professional competence (indicators: qualifications, personal references); Inter-personal skills (indicator: personal references and interview); Past performance (indicator: personal references and employers’ affidavits); The national trainer’s assessed ability to undertake the customisation of modules (indicator: knowledge and practice in the application of national procurement law and related administrative procedures); Commitment to the delivery of training in this area, if requested, for a certain period of time (indicator: supervisor’s/employer’s consent and personal motivation); Language skills, since TOT courses (at least the first) are to be conducted in English (indicator: IELTS examination score averaging at least 6.0³ or equivalent).

All of the above requirements need to be verified. Therefore candidates should complete an application form and provide:

- Copies of the certificates relating to their relevant qualifications;

³ The International English Language Testing System (IELTS) for fulfilling the English language admission requirements for universities in the United Kingdom and Australia is administered by all British Council offices in the capitals of the region. The scoring bands for reading, writing and speaking English range from 1.0 to 8.0. Admission to postgraduate courses usually requires a 6.5 average score on the IELTS.

- Two personal references (sealed and signed), addressing issues such as inter-personal skills, teaching and presentation skills, and past performance. At least one reference should be from the candidate's current supervisor.

It must be noted that the last criterion, relating to the command of the English language, provoked hot debate among members of the expert group. Some national experts argued that this requirement might eliminate the best candidates, i.e. excellent national procurement experts who happen to not speak English. On the other hand, for an ideal public procurement expert/trainer, knowledge of English (or another official EU language) seems indispensable for monitoring the professional development of EU public procurement legislation and practices. More importantly, the logic of the project implies that at least the first group(s) of trainers must be able to work in English. The generic training materials, elaborated in English by international experts, should be localised (translated and customised) to conform to national legal systems (and languages) by national trainers.

The expert group discussed a mixed solution, i.e. only in the case of the first group(s) of candidates should fluency in English be required. The first trainers would be responsible for translating the training materials into local languages. For subsequent groups, proficiency in English could be considered as an additional skill, but not as a key admission requirement. In that case, interpretation into local languages during the later courses would be necessary, but would increase the cost of the exercise.

It is planned to select 10-25 national candidate trainers from each country/entity (i.e. a total of 120-150 for all of the Western Balkans).

It is expected that most candidates would be recruited from among previously trained public procurement experts (previous TOT programmes implemented in the region).

The admissions panel (established by the project) should assess the applications and interview the candidates proposed by the PPOs.

Implementation of surveys

Whereas training needs related to the content of public procurement curricula have been identified in the region, a gap remains in the knowledge of specific issues related to the capacity of training institutions, qualifications of trainers, legal frameworks for training, status of trainers, etc. The above-mentioned issues differ from country to country and therefore should be investigated by means of the two surveys to be carried out at national level. Without this specific knowledge, it would be difficult to propose effective solutions concerning national public procurement training strategies, relationships of PPOs with "anchor" training institutions, and – at a later stage – support to PPOs in the development of national training plans.

Taking into consideration that implementation of training strategies depends on the capacities of institutions, one of the surveys should investigate the capacities of institutions to manage procurement training operations and their willingness to develop these capacities. A second survey will examine other parameters related to the formulation of an optimal national training strategy (or strategies) and corresponding national training plans (number of days that public procurement officers may participate in training, readiness to use distance-learning tools, support for training from managers, etc.).

In general, the first survey should provide, inter alia, the following data:

- Type of training institutions existing on the market, quality of their premises, and training support services;
- Capacity and experience of the institutions in the organisation of training;
- Interest of the institutions in participating in the project (possible incentives);
- Legal status of the training providers from various sectors;
- Potential relationship of these institutions to the national PPO;

- Professional performance of the existing trainers and their up-to-date professional experience in training delivery;
- Factors that may influence trainers' motivation to participate in the project;
- Legal / professional status of the trainers;
- Existing forms of professional support to trainers (associations, certification systems, courses offered, etc.).

The second survey should also provide other data needed for preparation of the national training strategies (step 4, below), including:

- Evolving training needs of procurement officers (gaps in competencies);
- Priority training courses in line with workload requirements;
- Number of days that procurement officers may spend for training (e.g. monthly);
- Ability of procurement officers to use online training;
- Level of training culture in contracting authorities;
- IT capacity of the institutions to accommodate online courses;
- Support to the professional development of staff provided by the institutions (e.g. ability to support procurement officers after training, etc.);
- Relation between participation in training / education and promotion of staff in the institutions;
- Financing options for the national training strategy and the first two years of the national public procurement training plans.

The results of the second survey will be used during implementation of step 4 (see below), when the development of national strategies for public procurement training in all seven countries / entities is envisaged.

Apart from the collection of data required for strategy development, implementation of the second survey may also provide the project with additional benefits, including the following:

- Enhancement of ownership of the project in the region, as beneficiaries of the strategy (PPOs, training institutions, contracting authorities) will be involved in the whole process from the very beginning, and their opinion will have been taken into consideration;
- Promotion of the strategy among stakeholders;
- Solid, research-based data available to donors to help plan their policies concerning public procurement and training, which may decrease potential overlapping and strengthen the effectiveness of planned initiatives.

b) Step 2 – Development of generic training modules in English

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| <ul style="list-style-type: none"> • Develop generic, competency-based training modules in public procurement for staff of contracting authorities and control bodies (one module should be developed for economic operators) • Develop training methodology based on case studies / good practices to be used as a basis for description of the modules • Writing process under supervision / participation of the review panel (EU + national experts to enhance ownership) |
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The project will develop a set of competency-based training modules, detailing the competencies (knowledge, skills and attitudes) required for successful execution of the procurement process in accordance with the legal framework of the EU procurement directives and professional good practice.

A suitable structure for these modules is proposed in Annex IV. To the extent possible, the new modules will use existing training materials previously developed for the region so as to enhance familiarity with the content as well as ownership. However, the requirements of the EU procurement directives of 2004 (2004/17 and 2004/18) will need to be reflected in the new modules, including the new methods of procurement introduced by these directives. It is planned to cover the legal requirements, insofar as possible, in the first module in order to facilitate the customisation work by national trainers (and national authorities concerned) of converting the generic training set into a national one that reflects, inter alia, national legislation and regulatory and administrative requirements.

The training methodology to be used in the development of this modular series will be competency-based and each session will include the following:

- A “learning objective” and a “lesson plan” to guide national trainers in terms of the desired learning outcome at the end of the session and the process to be followed in conducting the session;
- A “reference note” exploring the subject matter of the session, with examples of good practice and illustrations including charts, etc.;
- PowerPoint slides outlining the contents of the “reference note” to enable the trainer to structure his/her presentation;
- Exercises, assignments and case studies that the participants will need to solve/analyse during the session. Several sessions will be entirely based on case studies. Feedback from the solution/analysis of case studies and assignments will be crucial to enable participants and trainers to assess “learning achievement”;
- List of additional reading material, useful websites, etc.

The focus of this modular “trainer-learner” training set is twofold:

- at the learner’s level: to impart the necessary competencies for successful application of the substantive knowledge and procedural requirements to on-the-job procurement functions;
- at the level of national candidate trainers: to facilitate the tasks of planning, delivering and evaluating national procurement training activities.

The modular training set will be produced in the English language and will therefore need to be translated and customised for national delivery by the PPOs, using to a large extent national candidate trainers.

A separate training module will be developed for training potential tenderers on “how to compete for public procurement business opportunities”. Achievement of the ultimate objective of the project – enhancement of the operational performance of public procurement systems in the seven Western Balkan countries/entities – is contingent on the effective participation of the national business community (suppliers, contractors, service-providers and consultants) in government tenders. The tenderers will need to understand their rights and obligations in promoting the integrity and sound operation of national public procurement systems. This module will be delivered in a one-day session and will address the following topics:

- overview of the EU procurement directives (later to be customised by the PPOs and national trainers to include the national legal and administrative frameworks for public procurement);
- how to access information on business opportunities in the public procurement market;
- how to prepare tenders/proposals;

- how to request clarifications and how to identify and protest against illegal or biased provisions in tender or pre-qualification documents;
- how to access the bid challenge / review procedures in the event that contracting authorities default on their legal obligations;
- the right to be debriefed;
- professional conduct: confidentiality and the rules against fraud and corruption.
- The development process for the training modules will be supervised by a review panel comprised of: EU experts to ensure that the content is in line with EU legislation and based on relevant case studies / good practices from EU countries; Local experts to enhance ownership, facilitate customisation to national conditions, and provide access to any existing local good practices in a given area of public procurement legislation and practice.

An additional quality check of the training modules will be provided by a focus group, which will include practitioners (procurement officers) from the region.

Steps 1 and 2 of this strategy are executed in parallel, as shown in the timetable provided in Annex V.

c) Step 3 – Training of Trainers (TOT)

- Deliver Training of Trainers (TOT) course in two stages for about 120-150 participants from the region (total of five weeks)
- Organise help-desk to assist trainers
- Develop online training course
- Organise an examination at the end of the course
- Repeat the TOT course 4-5 times

Step 3 will proceed upon completion of step 2 (development of the modular training set for public procurement officers and for the business community). The TOT workshops will be delivered by EU experts. The TOT programme will be separated into two stages, the first of which is the two-week training activity designed to familiarise participants with the contents of the newly developed modules and to gradually build up their aptitude to competently utilise those training materials in training design and delivery. The first workshop will also be used to highlight the areas where national customisation of these modules is required and where reference to national experiences will add value to the ultimate beneficiaries, i.e. national procurement officers in the seven Western Balkan countries/entities.

Five such preliminary (first-stage) workshops will be delivered, with the participation of four candidate trainers from each Western Balkan country/entity in each workshop (28 participants in total for each event). These initial workshops will enable “live feedback” from candidate trainers regarding potential areas of improvement in the training modules and desired simplifications, additions, etc.

At the end of these workshops an initial work plan for customisation of the modules into the national context will be worked out with each national team of candidate trainers, indicating an appropriate distribution of tasks between team members. This work plan will be later formalised/adjusted in consultation with national PPOs upon completion of step 4.

Following the completion of step 3 and incorporation of the improvements/comments obtained through the “live feedback” from candidate trainers, it will then be possible to produce the final edition of the training modules in the English language. This final version will be distributed to all seven PPOs in the region and to the candidate trainers in order to commence the work of translating the modules into national languages and customising them in accordance with national contexts.

The second stage of TOT workshops will focus on:

- Deepening the candidate trainers' understanding of the modules, with particular emphasis on the procurement business process skills and advanced procurement topics;
- Upgrading the participants' training delivery skills (interactive teaching, use of Power Point and audio-visual aids, course planning and logistical arrangements, etc.);
- Guidance for customisation of selected parts of the modules for online training, and the role of a "tutor" in Internet-based distance learning;
- Methodology for development of national training strategies, costing and financing resources for national annual training plans.

At the end of this second stage workshop, each candidate trainer will take a "procurement-knowledge examination", which will assess the state of readiness of the candidate to act as a national trainer. Remedial action (further study of any topics where the candidate is deemed weak, followed by an appropriate short examination at the end of the agreed study period) may be prescribed for those "nearly ready", while those who are deemed to be "not prepared" will be excluded from any further activities, in agreement with the respective PPO.

d) Step 4 – Support for training at national level (individually for each country/entity)

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| <ul style="list-style-type: none"> • Develop national training strategy • Customise training modules (translation + adaptation to local legal system), including an online course supported by a help-desk • Support PPOs/trainers for 1-2 years of operation |
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National training strategy

The data collected by means of the two surveys mentioned above in the description of step 1 will enable the project to develop, in collaboration with the respective PPOs, the national procurement training strategy and corresponding implementation plans. The data will also make it possible to identify priority training courses and the respective number of participants for inclusion in the first year's procurement training plan.

To save time and costs in the execution of the survey, an online questionnaire will be used, supported by special software that will enable respondents to complete the questionnaire online. This will greatly reduce the effort of processing the questionnaires' data and enable a quick assessment of the results.

Based on the data thus collected, the project will be able to propose a tailor-made strategy for the delivery of public procurement training for civil servants and private sector operators in each of the Western Balkan countries/entities. Similarly, the annual training plans will be elaborated (covering a variety of procurement training topics deemed to be the most urgent as a result of the survey) in conformity with the following:

- Capacity of "anchor" training institutions to provide facilities and logistical and training support;
- Availability of national trainers to conduct training under the supervision of the respective PPO;
- Available financial allocations to fund the training.

The national strategy for each country will emphasise "affordability" so as to optimise the prospects for "sustainability" and national ownership.

Another aspect of "sustainability" to be explored in the respective national training strategies is the long-term retention of national trainers. Depending on the country context, this issue will be addressed through financial and non-financial incentive schemes, including national recognition/certification. As this issue of retaining national trainers over the long term will also be

critical to the continuous modernisation of training curricula, for fund-raising purposes the required resources will be earmarked as “research and development” allocations in the national training strategies.

Localisation of training materials

It is planned that each respective PPO will be responsible for undertaking the translation into the local language of the final version of the modules produced by the project. The respective PPO will also supervise the work of the national candidate trainers in the customisation of the modules in accordance with the work plan agreed at the end of the first stage of the TOT programme.

The work of the candidate trainers for customisation of the modules will be considered as a “research assignment”, which is a prerequisite for attending the second stage of the TOT programme. This work will also contribute to the overall assessment of their accreditation as national procurement trainers.

Help-desk

An online help-desk will be set up to guide the customisation work by the national candidate trainers. The help-desk will be able to respond to procurement subject-matter issues as well as training methodology/presentation concerns that may be raised by national trainers. The “help-desk” will also follow up on work progress in the customisation of the modules in order to ensure adherence to the agreed work plan for delivery of the second stage of the TOT programme.

Online course

An abridged version of the modular training set will be adapted for use as an online introductory course for junior government officials with part-time procurement responsibilities as well as for recent graduates who are just entering the procurement profession.

The project will provide assistance for the PPOs in Western Balkan countries/entities that intend to offer online training. This support will involve advice on selecting the appropriate software and presentation style, building in the necessary interactivity and audio-visual features that are indispensable for both online delivery and assessment of learning achievements.

National trainers will act as “tutors” for such online courses. They will have received appropriate preparation for this tutoring role during the second TOT workshop.

It is not planned to convert the full modular training set for online delivery since it is preferable, especially for the application part of the training (e.g. case studies), that course participants exchange their experiences first-hand and brainstorm together as a team, which is of key importance for successful on-the-job-performance in a multi-disciplinary function such as public procurement.

The purpose of the introductory online course is therefore to reach a wide audience and to give course participants from different backgrounds the necessary fundamentals of knowledge of legal and administrative frameworks for public procurement, thereby enhancing their learning achievements in subsequent face-to-face training courses that are more application-oriented.

Monitoring and support for trainers during first 1-2 years of operation

Lessons learned from previous capacity-building initiatives in the region and elsewhere indicate that such provision for support and follow-up on the quality and rigour of training delivery is essential to overcome early “teething” problems and to alleviate any shortcomings that may compromise the integrity of nascent public procurement training systems. It is planned to have the international project’s experts observe the performance of national trainers and national training institutions during the first year or two of delivery and provide advice/input as required (through the help-desk and through their observations of training proceedings in the classrooms) to help ensure that national training programmes attain the appropriate pace and quality.

The performance of national trainers in the delivery of training, as assessed by means of the feedback from course participants and the monitoring reports of experts, will be essential for their subsequent accreditation by their respective PPOs as “certified national procurement trainers”.

e) Step 5 – Accreditation of national trainers

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| <ul style="list-style-type: none"> • Certify national trainers following an observation/assessment period |
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Each national candidate trainer who has passed the required examination at the end of the second TOT workshop and successfully delivered the agreed number of training sessions under the observance of the project’s experts will be issued an attestation to this effect by the project. This attestation will qualify him/her for accreditation by the respective PPO as a “national procurement trainer”.

This dual-track accreditation process (cognitive examination plus successful performance) is necessary to guarantee the quality of training delivery and to motivate trainers to perform at their best throughout the path towards certification as a “national procurement trainer”.

Requirements and procedures related to both aspects of accreditation (examination and delivery of training under the observation of the project’s experts) will be clearly defined and provided in a transparent manner to all candidate trainers during the selection process (step 1 above).

Accreditation will be based on regionally recognised standards common to all countries/entities that have been set up by the project implementation body. The accreditation process will be carried out at national level by the PPOs, in co-operation with the project implementation body.

Accreditation based on regionally agreed criteria will open the possibility for mutual recognition of trainers’ qualifications in all countries/entities in the region – subject to additional criteria (examination) related to local content (national legislation).

Accreditation by the PPO as a “national procurement trainer” will be issued for a period of two years and subsequently renewed according to the above-mentioned regional / national approach, which is based, inter alia, on the following criteria:

- The trainer is still active in the market and has delivered the required number of days of training in public procurement according to agreed quality standards;
- The trainer has submitted references from clients (institutions where training was delivered) certifying the acceptable quality of the training provided;
- A specified number of training days have been observed by PPO experts, and a positive assessment of the training has been made;
- The trainer has proven that his/her knowledge has been updated and thus covers the current state of the art in public procurement legislation at EU and national levels.

C. RISKS AND PREREQUISITES

a) Risk assessment

A number of factors have been identified that may delay and/or endanger the proper implementation of the proposed project or negatively influence the quality of results.

Political instability in the region may undermine any long-term training initiative for the public sector, especially such an initiative, which implies close co-operation between civil servants and institutions in all countries/entities in the region.

A number of risks are associated with institutions in Western Balkan countries/entities that are key stakeholders in project implementation and in the sustained operation of national training systems (e.g. lack of political commitment and support may be damaging). Public procurement

offices/agencies may lack the capacity needed to participate in project implementation at the required delivery speed (e.g. they may not allocate enough time and resources to tasks foreseen for them in the implementation process – due to lack of commitment or lack of resources – or they may not be able to fully participate in the formulation and/or implementation of the national training strategy (due to weak capacity – i.e. lack of qualified staff and financial resources – and/or lack of legal instruments and authority).

Identification of the national anchor training institution(s) may prove to be difficult and may be contested. One or more national institutions may not carry out the functions in the manner envisaged in this report (due to some legal restrictions) or an institution may have to be created (empowered for the purpose) in a given country/entity. Co-operation with organisations outside the public sector may prove to be difficult. Co-ordination between national institutions – the PPO and the anchor training institution(s) – may give rise to unforeseen problems.

Identification and recruitment of the group of well qualified and motivated future trainers from countries/entities may prove challenging for the following reasons:

- Insufficient numbers of professionally qualified national candidate trainers;
- Lack of candidate trainers with sufficient knowledge of English;
- Lack of pedagogical skills among the (otherwise good) candidates;
- Unwillingness of potentially good candidates to subscribe to the project (due to lack of incentive) or unwillingness of their employers to allow them to participate in the training;
- Legal obstacles in some countries (for instance, prohibition for civil servants to become trainers);
- High turnover (trained individuals may seek better opportunities elsewhere);
- Possibility of various (for instance, political) distortions to the selection process, undermining its objectivity and professionalism.

Other types of risks can be identified:

i) *Risks related to customisation/localisation of training materials:*

- Localisation (adaptation to the local legal system) may not be sufficiently precise;
- Changes in the legislative framework (at the EU or national level) may render the materials obsolete.

ii) *Risks related to selection of “anchor” training institutions:*

- Training institutions may not be interested in supporting PPOs in training delivery (narrow target groups, limited number of training courses per year, etc.);
- Limited capacity of training providers in terms of logistics (training premises, IT equipment, etc.) and organisational competencies;
- In the case of public institutions, overloading with other responsibilities for training delivery, especially with regard to donor-supported projects;
- Lack of quality standards for the services provided by training institutions.

iii) *Risks related to the development and implementation of national training strategies:*

- Limited capacities of PPOs to take responsibility for developing the training strategy, despite support from trainers;
- Limited capacities of PPOs to manage implementation of the national training strategy;
- Limited national financial resources to support implementation of the strategy;

- Lack of support or consideration for the national training strategy on the part of key national donors.

Several factors during the later phases of implementation may jeopardise the sustainability of the envisaged training system:

- Lack of commitment of contracting authorities (and economic operators) to participate in the training provided by certified trainers;
- Lack of financial resources to cover the cost of training for procurement officers (delivered by trainers);
- Lack of incentives for trainers (and anchor institutions) to remain in the system;
- Lack of capacity to update training materials (following eventual changes in the legislative framework).

b) Risk management

Considerable attention has been directed towards “internalising” as much as possible the foreseen risks that may compromise the project’s success through:

- Objective selection of candidate trainers and anchor training institutions based on verifiable indicators cross-checked by the respective PPOs and a panel of experts, thereby alleviating the risks associated with this critical step to the extent possible;
- Incorporating milestones (examinations) and checks on progress for the development and implementation of “research assignments” for the customisation of public procurement curricula by national trainers;
- Elaboration of training materials under the supervision and with the participation of a review panel, consisting of international (EU Member States) and national (Western Balkans) public procurement experts;
- Localisation of training materials under the supervision of public procurement offices/agencies in the region;
- Support to national trainers and national training institutions during the first year of national delivery in order to guarantee training quality and rigour;
- Reinforcement of a “community of practice” relationship among national trainers from the seven countries/entities in the region by encouraging exchanges through the help-desk and enabling them to compare notes and positively interact as a group;
- Design of incentives for training institutions in accordance with the findings of the first survey;
- Promotion of the national training strategy among training institutions as a business opportunity;
- Support to training institutions in the development of quality standards related to the organisation of training;
- Support to PPO capacities related to the development and implementation of training strategies (trainers educated in relevant issues during TOT, project measures to support the first two years of training delivery, etc.).

Additional risks are related to external factors, which will be closely monitored by the project to mitigate their potential adverse effects. This monitoring will primarily involve:

- Ensuring timely and adequate allocations of financial resources by the Western Balkan countries/entities to fund the annual national training programmes;

- Extending appropriate recognition and necessary visibility to national trainers as an incentive for the progressive improvement of the training they provide.

A key prerequisite for implementation of this initiative is the continued commitment of PPOs in the region to the project's objectives and activities. The active participation of PPOs is critical to ensuring the success of all project activities and to mobilising the various contracting authorities to respond to the survey exercise and subsequently nominate their public procurement officers to attend the national training events. The PPOs also need to alert the private sector to the training opportunities offered by the project and to encourage their participation.

c) Sustainability of the proposed approach

The project will contribute to the sustainability of public procurement training systems in the Western Balkans through the following means:

- Survey to investigate the capacities of trainers and training institutions at the local level and to collect data required for the development of national public procurement training strategies;
- Comprehensive training modules customised to the local legal system and available in local languages, to be used during the courses for public procurement officers from public institutions and the courses for economic operators;
- Group of approximately 150 highly qualified trainers, who have passed the public procurement competency examination at the end of the five-week TOT course and who have been accredited in accordance with regionally recognised standards and their assessed performance in actual delivery; the quality of training delivered to target groups by the trainers will be checked and feedback on their training capacities will be provided in order to support their professional development. PPOs will be provided support in setting up a network of trainers, thereby ensuring a long-term commitment to provide courses envisaged by the national training strategy and to periodically update the training modules, as required.
- National “anchor” training institutions responsible for the logistical aspects of training delivery and co-operating closely on a long-term basis with PPOs;
- Strengthened PPO capacities required for the development and implementation of national public procurement training strategies; PPOs will be assisted in the selection of training priorities and of methodological approaches for the delivery of effective and efficient training courses, in co-operation with “anchor” training institutions.

ANNEXES

Annex I – An Alternative Analysis

Annex II - Public Procurement Training Systems – Country/Entity Information:

- a) Albania**
- b) Bosnia and Herzegovina**
- c) Croatia**
- d) Former Yugoslav Republic of Macedonia**
- e) Montenegro**
- f) Serbia**
- g) Kosovo under UNSCR 1244**

Annex III – Opinions of National Experts on Topics and Organisation of Future Training

Annex IV – Proposed Curricula

Annex V – Proposed Work Plan

ANNEX I

AN ALTERNATIVE ANALYSIS

Initially the expert group working on the report planned to submit two alternative scenarios: a more conservative scenario A limited to the regional activity and a far-reaching scenario B, which would also include activities at national level.

However, in subsequent discussions all experts (both national and international) decided to present in the report just one (more ambitious) scenario, which would include both activities at regional level (common to all countries/entities) and individual activities at national level (presented in the main part of the report).

It was also decided to keep an account of the discussions that led to the above decision.

Discussions on the two initial variants are therefore summarised as follows:

Scenario A (restricting the ReSPA initiative to the regional level)

According to this scenario the ReSPA initiative would include:

1. Development of competency-based training modules covering the full spectrum of competencies needed for successful execution of the procurement process, in accordance with the requirements of EU public procurement legislation and practice;

A set of generic modules would be developed in English and would need to be customised to correspond to the national context, under the supervision of the respective public procurement offices (PPOs). The customisation work would be modest as it would primarily concern adjustments/adaptations to reflect the specific national legal and administrative requirements. The bulk of the modules covering procurement business-process skills would need little, if any, customisation since these skills are determined in accordance with international professional standards as well as good practice;

2. Selection of candidate trainers and accredited national training institutions; the candidate trainers would be selected based on an assessment of their professional competencies, inter-personal skills, past performance, etc. The selection would be organised by the respective PPOs using a questionnaire and an interview designed under the ReSPA programme. Similarly, a questionnaire would be prepared for selection of the national training institutions serving as *anchor institutions* for the ReSPA programme for the dissemination of public procurement training at national level;

3. Training of trainers' workshops based on the newly developed ReSPA training modules would be used for validation of the modules, preparation of national candidate trainers for course delivery at the required professional procurement competency levels, and determination of training methodology aptitude levels (including the competencies needed for customisation of modules to fit the national context). A number of sessions would also be dedicated to exploring the required processes and steps needed for the development of national training strategies and estimating related funding resources / alternatives;

4. Development of online training, when deemed necessary by the respective PPO;

5. Elaboration of a "model" strategy and action plan focusing on how sustained operation of national public procurement training systems in the Western Balkan region can be achieved.

Scenario B (including both regional and national actions by the RESPA programme)

According to this scenario the ReSPA initiative would include:

1. Training needs assessment (survey) based on a representative sample of procurement practitioners from central, sub-central and local government contracting authorities; the survey would be conducted on the basis of a questionnaire covering the full spectrum of competencies needed for successful

delivery of the procurement process. Each listed competency would be assessed by the respondent in accordance with three parameters: its criticality, its frequency, and the self-assessed level of mastery of this competency during actual execution of the procurement process (with reference to previous performance problems). The responses to these questionnaires would be evaluated in order to identify:

- the scope of training required (identification of training topics that would be needed in order to adequately deal with the critical and frequently used competencies where there is a declared skill deficiency);
- the magnitude of training needs (the estimated number of courses and number of participants who would require training).

A key benefit of the survey would be to guide the process of designing training modules (a more detailed explanation would be given to critical competencies where skill deficiencies are prevalent). The survey would also enable ReSPA to assist each country in the development of its national training strategy and programme of implementation (action plan) for the first year(s). Funding scenarios for implementation of the national strategy would also be developed, highlighting the importance of “cost-sharing” between the ReSPA programme and national PPOs.

2. Development of competency-based training modules (same as Scenario A);
3. Selection/interview/assessment of national trainers and national anchor training institutions (same as Scenario A);
4. Training of trainers (same as Scenario A);
5. Online training (same as Scenario A);
6. Support and monitoring of performance of national trainers and training institutions during the first year of delivery; EU Member State experts would observe the performance of trainers during actual delivery of the course and would also assess the capacity of national anchor training institutions to provide logistics and technical support for the training. The trainers would only be certified by their respective PPO following the positive evaluation of their performance during this observation period.

Both scenarios A and B were subject to further examination by the “working group” in order to ensure “fitness for the purpose” as well as appropriate “internalisation of lessons learned from previous capacity-building activities in the Western Balkan region”. Following a series of exchanges and meetings, the “pros” and “cons” of each scenario / alternative were identified.

The “pros” for Scenario A were identified as follows:

1. Prompt launch of the training effort: the argument here is that development of the procurement training modules and the associated “train the trainers” effort could start without having to wait for survey results. The situation analysis in Part I of the report gives a fair picture of the training demand and clearly indicates the urgency of early commencement due to:
 - a. absence of comprehensive procurement training curricula in all Western Balkan countries (existing curricula are basic in nature and cover primarily legal aspects and not the associated professional skills);
 - b. existing curricula need to incorporate recent national legal updates and the new EU procurement directives;
 - c. shortage of qualified trainers.

The “cons” for Scenario A were identified as follows:

1. The scenario stops short of helping Western Balkan countries/entities put in place a national procurement training strategy and corresponding annual action plans (including essential ReSPA assistance in implementation during the first one-two years of the action plan). Under Scenario A, ReSPA’s effort is restricted to training the trainers on how to develop a national training strategy and

an action plan. It was noted that several technical assistance projects financed by donors in the past did not achieve sustained results because of the failure to support the formulation of a thorough national training scheme with adequate financial provisions for sustainability;

2. Absence of supervision / monitoring of the performance of national trainers and accredited national training institutions during the first years of operation: previous TA projects ignored the need to “accompany” the newly-created training systems until they were capable of sustained operation;
3. Absence of any training effort in favour of the business community (suppliers, contractors and consultants) focusing on how to compete for government procurement opportunities and the rights and obligations of businesses under the newly reformed public procurement systems.

The “pros” for Scenario B were identified as follows:

1. The survey would enhance national ownership through more effective participation by a wider cross-section of public procurement organisations in beneficiary countries, thereby enabling ReSPA at the outset of the initiative to more accurately define the magnitude and scope of training needs.
2. Scenario B includes a “built-in” safeguard for sustainability of the ReSPA initiative through:
 - a. assistance in the development of national training strategies and actual implementation plans, including assistance in lobbying national authorities to co-fund annual training programmes;
 - b. accompanying national trainers and national training institutions during the first year(s) of operation, thereby ensuring appropriate levels of “quality” as well as assistance in overcoming initial “teething” problems of the nascent national training systems.

The “cons” for scenario B were identified as follows:

1. Delayed start of training efforts due to the time needed to conduct the survey at the commencement of the initiative;
2. Increased cost and potentially less flexibility to address evolutionary developments (in the case of strict adherence to the results of the survey, which incorporates some subjectivity with respect to self-declared skill deficiencies) than could be gained by means of “live” feedback from candidate trainers during the actual training sessions;
3. It would therefore be better to undertake the survey at a later stage of the ReSPA initiative and use it only as a sound basis for formulating national training strategies and national annual training plans (i.e. exclude the survey’s role in defining the contents of the training modules since the scope of training needs is fairly well captured in Sigma’s assessments of 2007).

Adoption of the project strategy

Following further close study of both scenarios, the “working groups” devised the strategy of this ReSPA initiative, which combines key elements of Scenarios A & B without compromising the necessity of quick mobilisation (Scenario A) and incorporating the essential sustainability and quality considerations (Scenario B). The resulting combined scenario is referred to in the report as the “Project Strategy”.

ANNEX II

PUBLIC PROCUREMENT TRAINING SYSTEMS: COUNTRY/ENTITY INFORMATION

a) Albania

The new Public Procurement Law (PPL) no. 9643 was adopted in Albania on 20 November 2006 and entered into force on 1 January 2007. It is mainly based on provisions of EC Directive 2004/18, but the process of alignment of public procurement provisions with the *acquis communautaire* is not yet fully accomplished. EC Directive 2004/17 (utilities procurement) has not been transposed at all. Some of the new procurement techniques (framework agreement, competitive dialogue, electronic auction) have not been implemented, and further changes in the PPL are therefore already envisaged. The Public Procurement Law was recently amended by Law no. 9800, adopted on 10 September 2007. The main amendment to the law consists of changing the conditions concerning the use of the negotiated procedure without prior publication of a contract notice, approximating completely article 33 of the Law “On Public Procurement” with article 31 of EC Directive 2004/18.

The number of contracting authorities officially registered by the Public Procurement Agency (PPA) is 1671. The real number of institutions obliged to follow the PPL might be slightly higher. The Albanian system is fully decentralised – there is no central purchasing body (the PPL does provide for the establishment of a central purchasing body, but to date this body has not been established).

According to article 12(5) of the PPL, each contracting authority has to establish a procurement unit, composed of at least three procurement specialists. Due to a lack of qualified staff, many contracting authorities fail to meet this legal requirement.

Simplified procedures may be used only for contracts below the low-value thresholds (approximately 16,000 EUR for supplies and services and 24,000 EUR for works). Above the low-value thresholds, the full EU-harmonised procedures must be used.

According to the PPL, the Public Procurement Agency (PPA) is the institution responsible for the promotion and organisation of training for procurement officers [article 13(2b) of the PPL], and a separate unit within the PPA has been assigned this task: the Training, Integration, Finance and Management of Human Resources Section. The section’s duties include: drafting a training strategy, planning and organising training, and maintaining a database on training. The Training Section is not sufficiently staffed and does not have the necessary funds to organise trainings on its own.

Due to a shortage of resources, the Training Section in the PPA is obliged to co-operate with various international and local organisations to ensure training activities for procurement officials. In co-operation with the Millennium Challenge Albania Threshold Agreement Project (MCATA), a USAID-funded project, the Training Section has recently prepared a training plan for 1250 procurement officers representing central and local levels for the period October 2007-October 2008 (informative seminars for 750 officials were organised in July and August 2007).

The PPA also co-operates with the following organisations to carry out training in public procurement:

- Training Institute of Public Administration (Ministry of Interior);
- Albanian-American Trade Development Association;
- Netherlands Development Organisation Albania;
- Albanian Association of Municipalities.

MCATA, in co-operation with Tirana University, plans to initiate a postgraduate course in public procurement. However, the course has not yet started due to some procedural problems.

The PPA has approved the training curricula on the following topics:

- New public procurement legislation, as aligned with the EC Directives;
- Main principles of the new public procurement legislation;
- Public procurement procedures;
- Review procedures;
- Publication of notices;
- Website of the PPA.

The curricula (including some in English) are available on the PPA's website: www.app.gov.al.

Courses for the training of trainers have been given twice in Albania. In 2005-2006 the CARDS technical assistance project trained 12 trainers. Then in the first half of 2007, the USAID project MCATA, in co-operation with the PPA, conducted a three-day intensive training course for 23 trainers, who were officially certified after passing the examination.

b) Bosnia and Herzegovina

The new Public Procurement Law (PPL) of Bosnia and Herzegovina (BiH) was adopted in September 2004 and entered into force in November 2004 for state-level institutions and in May 2005 for the whole territory). The existing PPL, modeled on the EC Directives, is basically in line with EU standards, although certain discrepancies remain (the novelties of the 2004 EC Directives – electronic auction, competitive dialogue, framework agreement – have not yet been implemented). The PPL is currently in the process of being amended (a comprehensive draft amendment was submitted by the government to parliament in June 2007).

The public procurement system in BiH is fully decentralised (there is no central purchasing body; all contracting authorities award contracts individually). According to estimates, there are approximately 2,200 contracting authorities in BiH.

For all contracts of an estimated value above the “primary thresholds” (30,000 EUR in the case of works and 15,000 EUR in the case of supplies and services), regular, full procedures have to be applied. Below the primary thresholds, simplified procedures apply.

The PPL provides for the establishment of two new central procurement institutions: the Public Procurement Agency (PPA) and the Procurement Review Body (PRB). Both institutions started their activities only in summer 2006, i.e. with an 18-month delay. The PRB is an independent, quasi-judicial body that decides on appeals filed by aggrieved tenderers.

The PPA is an independent governmental body responsible for the development, implementation and monitoring of the public procurement system.

The PPA is also responsible for professional development in the area of public procurement. According to article 48(4) of the PPL, the agency's functions include:

- Publication of procurement manuals and guidelines;
- Provision of technical assistance and advice to both contracting authorities and suppliers;
- Publication of training information and other aids for professional development in public procurement;
- Maintenance of a register of accredited trainers in public procurement.

The PPA has not elaborated a long-term strategy for the development of a national training system.

The vast majority of educational activities in public procurement has been carried out with the help of foreign donors: EU technical assistance project (September 2003-February 2007) and the USAID and GAP project, in co-operation with the BiH Association of Municipalities (January-June 2007). These projects have had the following outputs:

- Publication of books on public procurement in the EU and in BiH (including a commentary on the BiH PPL) – available on www.javnenabavke.ba;
- Preparation of curriculum for BiH universities (2005), which is currently being implemented by the Faculty of Law of the University of Tuzla;
- Direct delivery of short introductory training on the new PPL for about 2,000 procurement officers (2005-2006);
- Delivery of training of trainers (2006);
- Delivery of training for municipalities (2007).

The training of trainers was implemented with help from the EU technical assistance project. Training was performed in three cycles (one week each). Training materials (also in English) used during this course are available online – see the same website as above. A total of 71 trainers successfully completed the course. All trainers who passed the examination (a written test plus an oral presentation) were awarded certificates. A register of certified trainers is maintained by the PPA (available online). According to relevant secondary legislation, the PPA is obliged to prepare training modules, continuously provide assistance to and education of trainers, and monitor activities of trainers. As trainers are independent from the PPA, they are available to contracting authorities on market terms and conditions. Trainers are obliged to report to the PPA about the training they deliver.

However, in the opinion of the PPA the existing system of training based on certified trainers has failed to meet expectations. The PPA is planning to take a more proactive role in training.

c) Croatia

Public Procurement Law (PPL) no. 117/2001 of 14 December 2001 is soon to be replaced by a new law (the draft was submitted to parliament in July 2007 and is expected to enter into force on 1 January 2008). The new PPL is intended to be fully harmonised with EU legislation.

Approximately 4500 entities in Croatia are obliged to apply the PPL (including in the utilities sector). There is no central purchasing agency. The threshold for application of the PPL is relatively low (approximately 27,000 EUR), which signifies that the PPL covers a huge number of contracts.

The public procurement training programme in Croatia is implemented by the Centre for Vocational Training and Professional Development of Civil Servants, in co-operation with the Public Procurement Office (PPO). The curriculum for the training has been elaborated in co-operation with the CARDS twinning project.

The Federal Ministry of Economy and Technology of Germany (a partner in a twinning project) organised a training course for future trainers, which was attended mainly by experts from the PPO. The course trained a total of 30 trainers.

d) Former Yugoslav Republic of Macedonia

The 2004 Public Procurement Law (PPL) of the former Yugoslav Republic of Macedonia is about to be replaced by a new law, which was adopted in November 2007 (entry into force on 1 January 2008). The new PPL is supposed to be fully compatible with EU public procurement directives. All new important instruments (framework agreement, competitive dialogue, electronic auction) are implemented in the new law.

The exact number of contracting authorities in the former Yugoslav Republic of Macedonia is not known. According to estimates of the Public Procurement Bureau (PPB), the number of contracting authorities is between 1000 and 1200. A majority of these authorities are small contracting authorities, such as schools, kindergartens or hospitals. The largest spenders are ministries, state funds (National Health Fund), major local government units (City of Skopje), public enterprises, and utilities. Every contracting authority is obliged to set up a procurement committee to carry out all procurement functions. Members of procurement committees are not procurement specialists, since they have to

carry out their regular duties in addition to their procurement activities. Some large contracting authorities have special procurement units.

Since 2004 the public procurement system in the former Yugoslav Republic of Macedonia has been managed by the PPB, a structure within the Ministry of Finance. The PPB is responsible, among other tasks, for the organisation and conduct of public procurement training. Until recently, the PPB (13 employees) had no unit specialising in training; only in July 2007, after the new PPB structure had been approved, was a new training unit established.

In co-operation with the EU-funded CARDS project, the PPB has developed an extensive set of training materials, including a public procurement manual that is available online on the PPB website <http://javni-nabavki.finance.gov.mk>. The training materials will be updated in accordance with the new legislation.

The EU project has organised a very short training programme for trainers in public procurement (two one-day sessions).

e) Montenegro

The new Public Procurement Law (PPL) in Montenegro entered into force in July 2006. The PPL is basically in line with the EU directives (with certain differences remaining). No changes in the legislative framework are planned in the near future.

The number of contracting authorities, according to Montenegrin authorities, amounts to 620; a full list is to be published by the Public Procurement Directorate (PPD). The system is fully decentralised (no central purchasing body).

If the estimated value of a contract exceeds 10,000 EUR for supplies and services or 30,000 EUR for works, contracting authorities have to apply the full procedures prescribed by the PPL. For contracts below these thresholds, simplified procedures are available.

Prior to the adoption of the 2006 PPL, the institution responsible for implementation of the public procurement system in Montenegro was the State Commission for Control of Public Procurement Procedures. The new PPL introduced a new central institution – the Public Procurement Directorate (PPD) – and since July 2006 the State Commission has been responsible only for the review system. However, the actual establishment of the PPD has been severely delayed (about 12 months); to date (December 2007) the institution is still not fully operational.

According to article 17 of the PPL, the PPD is responsible for implementation of the public procurement system in Montenegro. Its functions include:

- Provision of advisory and consulting services in the area of public procurement to contracting authorities, upon request;
- Participation and co-operation in organising staff training in public procurement.

Due to delays in its establishment, the PPD has not yet initiated its training activity.

To date all training courses have been organised by the State Commission in co-operation with international projects (EU, OSCE, SIDA, USAID). The training materials used (in local language only) are available on the website of the State Commission (<http://www.nabavka.vlada.cg.yu>).

A training of trainers system has not been implemented in Montenegro.

f) Serbia

The Public Procurement Law (PPL) of Serbia, adopted in 2002, was amended in 2004. A new draft law is now being processed by parliament and is expected to be adopted by the end of 2007. The new PPL is based on EU directives.

The largest country in the region, Serbia also has the largest number of contracting authorities – around 12,000. The precise number of procurement officers is not available, but a very rough

estimation is between 12,000 and 20,000. The procurement system is fully decentralised (no central purchasing body). The threshold for application of the procedures prescribed by the law is 30,000 EUR.

Since the beginning of 2003 Public Procurement Office (PPO) has been the central governmental institution managing the system. Functions of the PPO include, inter alia, the organisation of public procurement training. However, due to limited resources, the PPO has not yet created a training department (although it is planned to do so in the near future).

Some training has been organised in co-operation with EAR, OSCE and the Centre for European Integration Serbia.

The PPO is planning to undertake various actions (including the training of trainers) aimed at increasing the number of qualified procurement officials following the adoption of the new PPL (foreseen at the beginning of 2008).

g) Kosovo under UNSCR 1244

The public procurement system in Kosovo is regulated by Law no. 2003/17 (PPL), which entered into force in June 2004. The law has recently been changed – the amending Law no. 02/L-99, adopted on 8 February 2007, entered into force in June 2007, after promulgation by the United Nations Administration Mission in Kosovo (UNMIK). Recent changes include a new distribution of functions between public procurement institutions – Public Procurement Agency (PPA) and Public Procurement Regulatory Commission (PPRC) – and new regulations regarding training and certification of procurement officers. The amended PPL is generally compliant with EU public procurement legislation, although several differences remain.

The public procurement system is generally decentralised, meaning that most public contracts are awarded directly by interested contracting authorities. However, the government may decide that any procurement procedure to be conducted by any contracting authority in Kosovo will be conducted by the PPA instead of the concerned contracting authority, for reasons of professional expertise, cost-effectiveness, efficiency or other legitimate concerns, as formulated in the PPL (section 91). In practice centralised purchasing is rarely used.

Simplified procedures can be used only for contracts of a value below 10,000 EUR.

The number of registered contracting authorities equals 137 (with 360 certified procurement officers).

According to section 21 of the PPL, every contracting authority is obliged to designate one person as procurement officer, who is authorised to carry out the procurement procedures. During the period from 2004 to mid-2007, prior to amendment of the PPL, every contracting authority was obliged to create a procurement department (employing at least three specialists). Only persons holding “procurement professional certificates” issued by the Kosovo Institute for Public Administration (KIPA) could be nominated as procurement officers. During this period procurement certificates were issued by the PPRC.

Several details of the training system are set out in the PPL itself (section 23). Every procurement officer is obliged to attend at least once a year a training course organised by KIPA on the EU and Kosovar public procurement systems (the duration of the course is at least 10 days). KIPA issues “professional procurement certificates” to all trainees who successfully pass an examination (carried out by a professional independent expert body established by KIPA). These certificates are valid for only one year but are renewable. A list of certified procurement officers is available on the website of the PPRC.

Training for procurement officers is implemented by KIPA in co-operation with the Training Department of the PPRC. The training programme is prepared by the PPRC. Lectures are delivered by licensed trainers. KIPA (which operates within the Ministry of Public Services) also provides other types of training for the public administration of Kosovo.

The training of trainers was organised between September 2006 and March 2007 by the EU technical assistance project, in co-operation with the PPRC and KIPA. Of the 65 participants, 40 successfully passed the final examination and are now officially certified. The list of certified trainers is available online (www.ks-gov.net/krpp).

Other interesting training programmes, such as the masters course in public procurement, is currently being implemented by the University for Business and Technology in Pristina, in co-operation with the University for Technology of Vienna (and with support from the PPRC and PPA). The first group (39 senior public procurement officials, the majority of whom attended all previous procurement courses, including the training of trainers) completed the masters course in June 2007.

ANNEX III

OPINIONS OF NATIONAL EXPERTS ON FUTURE TRAINING

National experts' opinions on topics to be taught

National experts have been asked their opinions and ideas regarding the content (main topics) of future training activities in public procurement.

General Comments

According to the opinions received:

- A main part of the training should consist of practical examples and cases studies, whereas only a small part should be of a theoretical nature (*Bosnia and Herzegovina*);
- There should be separate training modules for civil servants, contracting officers from other entities (utilities) and economic operators (*Croatia*).

Priority Topics

On the basis of an analysis of frequently asked questions and of feedback from training participants, national experts give priority to the following topics:

Albania

- Types and selection of public procurement procedures;
- Conduct of procedures in detail (from planning to contract signature), using concrete examples;
- Preparation of tender documents (determination of qualification criteria);
- Evaluation of abnormally low tenders;
- Contract management;
- e-procurement.

Croatia

- Procedures and methods of public procurement;
- Preparation of tender documents;
- Eligibility requirements and criteria;
- System of publication of procurement information;
- Prevention of corruption in public procurement.

Former Yugoslav Republic of Macedonia

- Planning of procurement (estimating the value of contracts);
- Preparation of tender documents;
- Competitive dialogue;
- Negotiation techniques;
- Framework agreements;
- e-procurement;
- Contracts in the utilities sector;
- Public-private partnerships and concessions;
- Review system.

Montenegro

- Procurement planning (challenges and mistakes);
- Preparation of tender documents of technical specification;
- Selection criteria (qualification of bidders) and evaluation criteria (award of contract);
- Opening and evaluation of bids;
- Contract award;

- Green procurement;
- e-procurement;
- Procedures for low-value contracts;
- Review and remedies;
- Combating corruption in public procurement.

Serbia

- Domestic public procurement procedures;
- Protection of bidders' rights;
- EU public procurement legislation;
- e-procurement.

Common Features

Despite obvious differences, there are several common features in all above proposals:

- The proposed topics cover practically all stages of the procurement process – from planning to contract management;
- The proposed structure and sequence of topics follow the logic of procurement operations (and not – for example – the structure of public procurement laws);
- The focus is on the development of practical skills (with as many concrete examples and case studies as possible) rather than on theoretical considerations;
- The focus is not only on legal requirements, but also on the economic aspect of procurement processes (not only legality but also efficiency);
- The focus is on the harmonisation of national regulations with EU legislation (not directly on the EU directives);
- New, modern procurement techniques are included (competitive dialogue, framework agreements, e-procurement).

National experts' opinions on the possible organisation of ReSPA intervention

National experts were also asked to express their ideas about how the ReSPA intervention in the area of public procurement training could be organised and structured.

Albania

- Elaboration of a new model of curricula;
- Elaboration of curricula for online training;
- Periodical training of trainers under ReSPA auspices aimed at increasing trainers' capacities and knowledge and ensuring the continuity and performance of already established training structures.

Bosnia and Herzegovina

- ReSPA training aimed at trainers already educated and active in the region;
- Preparation of training materials and guidelines containing examples of good practice from EU Member States;
- Training focused on practical skills in various sectors (e.g. medical procurement, energy procurement).

Former Yugoslav Republic of Macedonia

- Assistance to national public procurement agencies in developing training strategies and programmes;
- Elaboration of model curricula for training;
- Review of existing training materials and assistance in developing new ones;
- Elaboration of case studies of EU good practice;
- Organisation of a training of trainers course;

- Logistical support to national agencies in organising and delivering training events.

Montenegro

Organisation of training on three levels:

- 1) Basic training – an introduction to basic principles and procedures and the institutional framework;
- 2) Intermediate training – introduction to EU public procurement legislation, detailed presentation of procurement procedures (with practical examples – how to prepare tender documentation, how to open and evaluate bids, how to deal with complaints), institutional framework (functions and responsibilities of key institutions in the public procurement system);
- 3) Advanced training – EU public procurement system in detail (directives and relevant judgments of the European Court of Justice), public procurement rules of the World Bank.

The trainees who successfully pass an examination, following the third phase, would be given certificates as “public procurement experts”.

Serbia

- Elaboration of model curricula and glossary of procurement terminology;
- Training of trainers and support to training departments within public procurement offices/agencies;
-

Common Elements

Interestingly, all of the above proposals are very similar. We can point out three key elements that are most commonly expected from the ReSPA training initiative:

- Elaboration of training materials, oriented towards the development of practical skills (good practice case studies);
- Training of trainers organised under the auspices of ReSPA to be built on existing national structures (targeting the group of already educated and certified trainers);
- Continuous, online education of trainers.

ANNEX IV

PROPOSED CURRICULA – PROPOSED OUTLINE

A. MODULE I: Public Procurement – Introduction and Principles, Legislative and Institutional Framework

Part 1: Public procurement – introduction, historical context

- Historical context and development of public procurement regulations
- Development of EU public procurement legislation
- International regulations of public procurement (UNCITRAL, WTO/GPA, World Bank, EBRD)
- *History of a national public procurement system⁴*

Part 2: Legislative framework

- EU public procurement legislative framework
 - EC Treaty – provisions relevant for public procurement
 - EC Directives – structure, scope of regulation
 - ECJ judgments relevant for public procurement
- *National public procurement legislation*
 - *Primary public procurement law*
 - *History*
 - *Structure*
 - *Scope of regulation*
 - *Secondary public procurement legislation*
 - *Other relevant legislation*
 - *Administrative law*
 - *Contract law*
 - *Criminal law*
 - *Budget law*
 - *Other special laws*

Part 3: Basic principles of public procurement

- Non-discrimination, equal treatment
- Transparency
- Competition
- Proportionality
- Value-for-money

Part 4: Institutional framework

- Role of EU institutions
- *Public Procurement Office/Agency*
- *Procurement Review Body*
- *Organisation at level of contracting authorities – procurement departments/units; (certified) procurement officers*
- *Centralised procurement – central purchasing agency*

Part 5: Economics of public procurement

B. MODULE II: Public Procurement Law – Scope of Application

⁴ *In italics are indicated those topics that will require full customisation (adaptation to a national legal system).*

Part 1: Contracting authorities (classical sector)

- State and local government administration
- Bodies governed by public law

Part 2: Contracting entities in the utilities sector***Part 3: Contracts covered***

- Supplies
- Services
- Works construction
- Mixed contracts
- Works concessions

Part 4: Exemptions

- Military contracts
- Contracts involving state secrets
- Exemptions in the utilities sector
- Excluded categories of services
- Other exclusions

Part 5: Thresholds

- *Minimum-value thresholds*
- *Low-value thresholds*
- International thresholds (EU thresholds)
- Calculation of estimated contract value
- Aggregation of contracts (aggregation of lots)

C. MODULE III: Preparation of Procurement***Part 1: Procurement planning***

- Main players in procurement
- Advance notification
- Preliminary stages
- Relations to suppliers in early stages of the tender procedure
- *Budget issues (allocation of funds)*
- Market research regarding potential suppliers
- Packaging in order to encourage competition
- Administrative requirements

Part 2: Contract strategies

- Basic types of contracts
- Supplies contracts
- Works contracts
- Service contracts
- Framework agreements
- Concessions, public-private partnerships

Part 3: Financial instruments and safeguards

- Financial instruments: bonds, guarantees, and letters of credit
- Inspection and transport
- Insurance

Part 4: Public procurement procedures (basic features)

- Open procedure

- Restricted procedure
- Negotiated procedure with prior publication of contract notice
- Competitive dialogue
- Negotiated procedure without publication of a notice
- *Simplified procedures*
- *Request for quotations (low-value contracts)*
- Design contest

Part 5: Choice of the public procurement procedure (in both classical and utilities sectors)

Part 6 : Green procurement – ecological considerations

- Definition of procurement needs
- Technical specifications – use of ECO labels, definition of production method
- Selection of environment-friendly suppliers
- Ecological contract award criteria
- Ecological conditions for performance of contracts

D. MODULE IV: Conducting the Procurement Process

Part 1: Preparing tender documents

- Definition and types of specifications
- Using standards
- Formal and functional requirements
- Specifying product requirements for goods
- Description of works contracts
- Specification of services
- Issuing and clarification of tender documents (responding to participants' questions)

Part 2: Advertisement of contract notices

- Prior indicative notice
- Contract notice
- Contract award notice
- Usage of CPV (Common Procurement Vocabulary)
- TED / national media (public procurement bulletins/registers)
- Buyer's profile

Part 3: Selection (qualification) of candidates

- Qualification process
- Selection conditions and criteria (eligibility, grounds for exclusion)
- Documents requested from candidates
- Reserved contracts

Part 4: Setting contract award criteria in tender documents

- Subject-related contract award criteria
- Most advantageous economically or lowest price tender
- Different methods for choosing the most advantageous tender
- Value-for-money concept

Part 5: Contract evaluation and contract award

- Evaluation of tenders
- Contract award
- Standstill period
- Abnormally low tenders
- Possibility of post-tender negotiations

Part 6: Transparency, reporting, informing tenderers, communication with participants of the procedure

Part 7: Electronic procurement

- Electronic publication of notices
- Electronic publication of tender documents
- Electronic tendering
- Electronic auction
- Dynamic purchasing system

E. MODULE V: Public Procurement Review and Remedies; Combating Corruption***Part 1: Remedies***

- Remedies
- Review bodies
- Setting aside of individual procurement decisions
- Standstill period and contract conclusion
- Damages
- Litigation in practice
- Judicial review

Part 2: Audit of procurement

- Internal audit of procurement procedures
- External audit of procurement procedures

Part 3: Integrity of public procurement

- Identifying the risks of fraud and corruption
- Preventing and detecting fraud and corruption

F. MODULE VI: Contract Management***Part 1: Contract management***

- Introduction to contract law
- Introduction to the law of damages (torts)
- Contract amendment
- Introduction to the law of restitution
- Monitoring contract performance
- Payment
- Contract close-out

Part 2: Dispute settlement in contract management

- Dispute avoidance
- Negotiation
- Alternative dispute resolution
- Arbitration
- Litigation
- Enforcement

Part 3: Measuring performance in public procurement

- Performance management
- Targets and accountability
- Procurement management process
- Performance management in operation
- Procurement management performance indicators
- Tracking management performance

G. MODULE VII – Organisation at Level of Contracting Authorities

Part 1: Contracting authorities' internal regulation of the procurement process

- Organisational framework of procurement services: procurement departments/units, (certified) procurement officers
- Internal legal framework of the procurement process: instructions, manuals and guidelines for procurement services
- Maintenance of appropriate documentation, including audit trail

Part 2: Responsibility of the contracting authority for preparation and management of the procurement process

- Competency profile of procurement staff – legal knowledge and business skills
- Set of skills required for:
 - preparation of the procurement process
 - running the procurement process
 - procurement contract management
- Accountability of the contracting authority
- Management of the procurement process - roles and decision-making structures
 - purchase initiator
 - procurement officer
 - evaluation panel /tender committee
 - contract administrator
 - head of the contracting entity
 - financial services
- Example of the internal organisational structure of the procurement process

Part 3: Role of the procurement officer

- Technical assistance and support in the procurement planning process
- Drafting of tender documents
- Administration and running of the procurement procedure
- Support to the evaluation panel
- Assistance throughout post-tender discussions
- Ensuring the publication of mandatory notices
- Drafting of the report on procurement

Part 4: Role of the evaluation panel / tender committee

- Rules on appointment of the evaluation panel
- Grounds for exclusion from the evaluation panel
- Tasks of the evaluation panel in the contract evaluation and award process
- Accountability of the evaluation panel to the contracting authority

Part 5: Contribution from external consultants and experts

- Scope for the use of external consultants in procurement planning
- Use of experts throughout a contract evaluation
- Involvement of external experts in negotiation, mediation or arbitration procedures

Part 6: Handling of complaints***Part 7: External and internal relations of procurement departments***

- Procurement departments as service providers (end-user satisfaction)
- Relations with suppliers
- Relations with other contracting authorities

H. MODULE for Economic Operators***1. Legislative framework of public procurement***

- EU directives
- National public procurement legislation

2. Basic principles of public procurement system

- Non-discrimination, equal treatment
- Transparency
- Competition
- Proportionality

3. Public procurement procedures and techniques: an overview

- Open procedure
- Restricted procedure
- Negotiated procedure without publication of notice
- Negotiated procedure with publication of notice
- Competitive dialogue
- Framework agreement
- Electronic auction

4. Selection (qualification) of suppliers

- Qualification process
- Selection conditions and criteria
- Documents requested from candidates

5. Preparation and submission of tenders

- Understanding of tender dossier
- Clarification of tender dossier
- Preparation of tender
- Most common mistakes in tenders
- Submission of tenders

6. Contract evaluation and contract award

- Evaluation of tenders
- Contract award
- Abnormally low tenders
- Possibility of post-tender negotiations

7. Common mistakes in tenders

8. Remedies and review procedures

- Remedies
- Review bodies
- Damages
- Judicial review

ANNEX V WORK PLAN

ID	Name 1	Name 2	Duration	Start	Finish
2	STEP 1: IMPLEMENTATION OF SURVEYS	Step 1.1: Conduct survey to select national “anchor” training institutions and national “candidate trainers” and collect data	60 days	07-01-2008	28-03-2008
4	STEP 2: DEVELOPMENT OF TRAINING MODULES	Step 2.1: Develop public procurement training modules (professional and legal) (6 months)	120 days	07-01-2008	20-06-2008
5	STEP 2: DEVELOPMENT OF TRAINING MODULES	Step 2.2: Introduce refinements to the modules as per review panel recommendations	4 days	31-03-2008	19-06-2008
6	STEP 2: DEVELOPMENT OF TRAINING MODULES	Step 2.3: Develop a module for the business community on "How to Compete for Public Procurement Opportunities" (2 months)	40 days	28-04-2008	20-06-2008
7	STEP 2: DEVELOPMENT OF TRAINING MODULES	Step 2.4: Validate “generic” module through pilot delivery to focus group, i.e. national procurement practitioners from the region	5 days	20-06-2008	26-06-2008
9	STEP 3: TRAINING OF TRAINERS	Step 3.1: Deliver first stage TOT (5 workshops of 2 weeks each)	50 days	30-06-2008	27-10-2008
10	STEP 3: TRAINING OF TRAINERS	Step 3.2: Produce the final public procurement modules (1 month) on the basis of feedback from the first TOT	20 days	28-10-2008	24-11-2008
11	STEP 3: TRAINING OF TRAINERS	Step 3.3: Establish and avail of online help-desk services (21 months)	420 days	10-11-2008	18-06-2010
12	STEP 3: TRAINING OF TRAINERS	Step 3.4: Deliver second stage TOT (5 workshops of 3 weeks each) including knowledge exams and assessment of progress	75 days	12-01-2009	09-06-2009
13	STEP 3: TRAINING OF TRAINERS	Step 3.5: Support development of online national training courses (where applicable) (11.5 months)	230 days	03-08-2009	18-06-2010
14	STEP 3: TRAINING OF TRAINERS	Step 3.6: Translate and customizse/ localise public procurement modules in accordance with national context (12 months)	240 days	23-07-2008	23-06-2009

15	STEP 3: TRAINING OF TRAINERS	Step 3.7: Develop national training strategy and first year action plan	90 days	18-02-2009	23-06-2009
17	STEP 4: NATIONAL TRAINING DELIVERY	Step 4.1: Accompany/observe trainers and monitor institutions' performance (12 months)	240 days	20-07-2009	18-06-2010
18	STEP 4: NATIONAL TRAINING DELIVERY	Step 4.2: Deliver national courses by national trainers (12 months)	240 days	20-07-2009	18-06-2010
20	STEP 5: NATIONAL/REGIONAL CERTIFICATION	Step 5: Certify national trainers by certification commission in each country (1 week after completion of observation)	5 days	05-07-2010	09-07-2010

