

QUARTERLY PROGRESS REPORT
Municipal Infrastructure Support Program

USAID Award No.: 170-A-00-01-00103-00
Cooperative Agreement Period: August 2, 2001 – January 31, 2003
Reporting Period: July 1, 2002 – September 30, 2002

**USAID Cognizant
Technical Officer:** Amy Osborn (Podgorica)

I. INTRODUCTION

Goals/objectives:

The International City/County Management Association (ICMA) established the *US – Montenegro Partnership for Municipal Development* in November 1999, initially under a one-year grant from the U.S. Agency for International Development (USAID). Phase I activities were designed to assist local governments in responding more effectively and efficiently to increased demands on municipal services due to the influx of internally displaced persons from the Kosovo conflict. The ICMA grant, which expanded and was extended until December 2002, now serves as the technical and operational hub for USAID assistance to the local government sector in Montenegro.

The Municipal Infrastructure Support Program (MISP) was conceived as support to the Partnership for Municipal Development to accomplish several goals:

- Sustain the reforms once the local government laws are enacted
- Provide projects by which to demonstrate transparent municipal finance policies, systems and practices
- Provide opportunities for increased citizen participation
- Improve capacity of local governments to respond more effectively and efficiently to increased demands on municipal services

Seven municipalities have been designated “Centers of Excellence” and receive infrastructure grants to undertake specific capital investment projects as a training tool to refine and leverage Partnership policy reform and capacity building activities. In addition, the program assists municipalities to develop their capabilities in the areas of multi-year financial planning and Capital Improvement Planning (CIP). The technical assistance component of the project is intended to enhance the capabilities of municipalities to assume responsibility for their own infrastructure development.

ICMA/MISP offers an integrated package of training and technical interventions designed to:

- A. Improve the municipal project planning and design process
- B. Improve municipal financial management skills and practices

- C. Familiarize municipalities with the new Public Procurement Law (PPL), and provide active municipal project management pursuant to the new law
- D. Improve Municipal Constituency Outreach Skills

Counterparts:

Principal counterparts include: (1) the municipalities of Tivat, Kotor, Ulcinj, Cetinje, Nikšić, Pljevlja and Berane.

II. ACCOMPLISHMENTS:

(A) Improve Municipal Project Planning And Design Capabilities

Development of municipal projects:

Under ICMA/MISP the municipalities play the lead role in planning, proposing, designing, and undertaking the work. ICMA/MISP provides technical assistance (TA), training, and review. Projects are to be developed in three rounds, to provide multiple opportunities for hands-on experience by the municipalities. During the 1st round for each municipality ICMA has tendered the Works while providing training to the municipal staffs. The first round projects, although tendered by ICMA, have the tender documents prepared according to the Law on Public Procurement. During the 2nd and 3rd rounds the municipalities are tendering the projects per the Law on Public Procurement with ICMA/MISP assistance and oversight.

- ICMA/MISP completed the reviews, and design enhancement assistance, and tendering for all scheduled projects
- Two of the projects for Berane were cancelled for environmental reasons. Berane failed to properly address environmental issues and to follow prescribed Republic of Montenegro requirements in obtaining Republic level permits. The projects were replaced with the procurement of garbage trucks and ancillary equipment. The garbage trucks are on the CIP produced under the Partnership TA.
- ICMA/MISP began the construction administration (CA) hands-on training for municipal counterparts. An audit/training process is being used to continuously identify (needs assessment) areas of CA that need focused training for each project.
- ICMA/MISP prepared and conducted an interactive workshop on good CA principles. The workshop was attended by all municipal counterpart construction Program Managers and Resident Engineers. In addition, municipal program coordinators, procurement officers and officials, and representatives of several contractors attended the workshop.
- MISP continued the program meetings with each of the seven mayors and municipal officials to discuss project progress and status.

Review of projects:

- Reviewed in depth and assisted municipal designers in preparing Technical Conditions for second and third round projects in, Kotor, Nikšić, Tivat, and Pljevlja.
- Reviewed and assisted Berane and Cetinje in the preparation and tendering of procurement documents for the procurement of equipment. Equipment procurement is somewhat different than Works procurement: This provided the municipalities with a more rounded experience in how to tender under the PPL.

OUTPUTS:

- Project Implementation Agreements signed with each counterpart municipality for each proposed project.
- Tendering of equipment projects
- Tendering, award, and start of all scheduled Works projects.
- pre-construction meetings for all Works projects
- Completion of Construction Administration Manual – including preparation of 20 standard forms. The Manual harmonizes the needs of the Law on Public Procurement with that of existing laws.

RESULTS/IMPACTS:

- Substantial hand-on training in proper preparation of technical documents (specifications and drawings) in the detail and format needed for proper tendering under the PPL
- Identified probable obstacles to rapid implementation encountered in working with municipalities. Remedial measures developed and assistance targeted to ensure a more effective and efficient process going forward.
- All scheduled projects started

(B) Improve Municipal Financial Management Skills and Practices
--

**** See Partnership Quarterly Report for detail on these activities****

Capital Budgeting and Capital Improvement Planning (CIP)

- MISP assisted the ICMA Partnership staff in the preparation and planning for a 2nd round of capital budgeting and CIP training. Based on the experiences and success of the first round ICMA/MISP municipalities, the training program was expanded to all twenty-one Montenegro municipalities. *[See Partnership Quarterly Report Section B]*

OUTPUTS:

- Continuation of 2nd round capital budgeting and CIP development process.

Municipal Budgeting

- MISP provided technical input and coordination with Partnership, and partially funded the enhancements to the CIP software (OSIP) to be used in preparation of the 2003 CIPs. Feedback from the initial software use was used to determine the needed enhancements.
- Coordinated with CRDA programs on need for CRDA involvement in next round of municipal capital budgeting

OUTPUTS:

- Updated and more useful CIP software.
- CRDA implementers sensitized and more aware of municipal processes and need for earlier involvement
- Enhanced the awareness of municipal officials to the need to continue to involve citizens in CIP development and that CRDA provided them with one means to accomplish this.

RESULTS AND IMPACTS:

- Recognition by municipalities that the budgeting process needs to consider long-term items as well as immediate items, and continued need for citizen involvement.

(C) Familiarize municipalities with the new Public Procurement Law, and provide active municipal project management pursuant to the new law

Contract Bidding – 1st Round

- By April 2002, ICMA/MISP developed and vetted with USAID bidding and contract documents for the first round of construction services, which included mandatory USAID clauses. Under the first round, ICMA/MISP acts as the Contracting Authority with full approval and payment rights while each municipality acts in a supporting role with certain project implementation responsibilities and risks. During this reporting period ICMA/MISP issued the sixth and final first round bid for the Ulcinj project listed in Table 1.

Contract Bidding – 2nd Round

- ICMA/MISP also developed bidding and contract documents for second round projects, which includes the procurement of construction services and solid waste

equipment. Under this round, each partner municipality acts in accordance with the Montenegrin Public Procurement Law as the Contracting Authority for each project with a full complement of project implementation responsibilities, risks and rights – except those reserved unto ICMA/MISP as “the Implementing Agency”. During this reporting period, under the guidance and oversight of ICMA/MISP, the partner municipalities issued 11 second round bids for the construction and solid waste equipment projects listed in Table 1.

Table 1
List of ICMA/MISP Projects

1st Round Projects, Construction

Berane: MISP/BA-01-01-00: Sewage Network Upgrade, Phase I^{*}
 Kotor: MISP/KO-03-01-00: Traffic Intersection Upgrade
 Nikšić: MISP/NK-04-01-00: City Park Upgrade
 Pljevlja: MISP/PV-05-01-00: Water Network Upgrade, Phase I
 Tivat: MISP/TV-06-01-00: Traffic Intersection Upgrade
 Ulcinj: MISP/UL-07-01-00: Well Field Upgrade

2nd Round Projects, Construction

Berane: MISP/BA-01-02-00: Sewage Network Upgrade, Phase II^{*}
 Kotor: MISP/KO-03-02-00: Bridge and Intersection Upgrade
 MISP/KO-03-03-00: Intersection and Street Lighting Upgrade
 Nikšić: MISP/NK-04-02-00: Sidewalk Upgrade
 MISP/NK-04-03-00: City Block Development
 Pljevlja: MISP/PV-05-02-00: Water Network Upgrade, Phase II
 ISP/PV-05-03-00: Street Upgrade
 Tivat: MISP/TV-06-02-00: City Parking Lot Upgrade
 ISP/TV-06-03-00: City Park Upgrade

2nd Round Projects, Solid Waste Equipment

Berane: MISP/BA-01-E-01-00: Garbage Truck and Container Procurement
 Cetinje: MISP/CT-02-E-01-00: Garbage Truck and Container Procurement

^{*} This project was cancelled after issuance of the bidding documents. Bidding documents for MISP/BA-01-03-00, Sewage Network Upgrade, Phase III, were also developed during this reporting period but the project was cancelled before they were issued.

Bid Clarification and Amendment

- In line with relevant Montenegrin Public Procurement Law rules, ICMA/MISP developed procedures for conducting pre-bid conferences and related site visits, for clarifying bidder questions on technical or contractual issues, and for issuing amendments to the bidding documents arising from such clarifications. During this reporting period, ICMA/MISP conducted first round pre-bid conferences in Berane, Pljevlja and Ulcinj and worked with municipal officials to issue clarifications and amend bidding documents as needed.
- Pre-bid conferences for all second round construction projects listed in Table 1 were conducted by officials in their respective municipalities. Public Procurement Officers were then tasked with issuing clarifications and any amendments to the bidding documents.

Bid Opening, Evaluation and Award

- In line with relevant Montenegrin Public Procurement Law rules and forms, ICMA/MISP developed transparent procedures for receiving, opening and evaluating bids, as well as awarding contracts. During this reporting period, ICMA/MISP received sealed bids for the first round construction projects for Berane, Pljevlja and Ulcinj and partner municipalities received sealed bids for all second round construction projects listed in Table 1.
- All bid openings for the first and second round projects were held in the partner municipalities and were open to the public in accordance with the Montenegrin Public Procurement Law. For training purposes, municipal officials were invited to the ICMA/MISP office in Podgorica to participate on first round bid evaluation and award committees. All second round bid evaluation and award committees were convened in the partner municipalities with ICMA/MISP staff participating on committees for oversight purposes. During this reporting period, 13 evaluation committees were convened and 13 award committees endorsed the lowest price responsive and responsible bidder recommendations of those evaluation committees.

Project Implementation Agreements

- In accordance with the original ICMA/MISP Implementation Proposal, Project Implementation Agreements (PIA) were drafted and signed with municipalities for all first and second round projects. These documents make explicit the respective responsibilities of each partner municipality beyond those listed in each contract, including establishment of Project Implementation Units (PIU) for each project and formalization of in-kind and joint financing municipal contributions.

Procurement Training

- ICMA/MISP continued to put forth substantial effort to familiarize municipal officials with all relevant provisions of the Montenegrin Public Procurement Law, rules and forms. This included procurement training on general procurement principals of transparency, efficiency and cost effectiveness, as well as targeted training in the

procurement of construction services and solid waste equipment. Over the course of this reporting period, ICMA/MISP procurement staff worked “shoulder-to-shoulder” with officials from all seven partner municipalities in procurement training activities.

- Training procedures included familiarizing officials with Public Procurement Law material relevant to the activity at hand using handouts and PowerPoint presentations and allowing for substantive examination and discussion of the materials. Municipal officials then participated in these activities, putting into direct practice knowledge gained in: (i) preparation and issuance of bidding documents; (ii) opening and evaluation of bids to determine the lowest cost bidder; (iii) how to award contracts; and (iv) how to properly document all aspects of the procurement exercise.

OUTPUTS:

1st Round

- Bidding documents issued for sixth and final first round project in Ulcinj: MISP/UL-07-01-00.
- Public Procurement Officers and other municipal officials from Berane, Pljevlja and Ulcinj trained in bid clarification and bid opening procedures. Three pre-bid conferences and three public Bid Openings held: MISP/BA-01-01-00; MISP/PV-05-01-00; and MISP/UL-07-01-00.
- Public Procurement Officers and other municipal officials from Berane, Kotor, Pljevlja, Tivat and Ulcinj trained in evaluation and award procedures. Five Bid Evaluation and five Award Committees convened. Five contracts awarded for the above mentioned bid solicitations as well as MISP/KO-03-01-00 and MISP/TV-06-01-00, for which public Bid Openings were convened in the preceding reporting period.

2nd Round

- Public Procurement Officers from Berane, Kotor, Nikšić, Pljevlja and Tivat trained and then tasked with preparation of second round bidding documents: MISP/BA-01-02-00; MISP/BA-01-03-00; MISP/KO-03-02-00; MISP/KO-03-03-00; MISP/NK-04-02-00; MISP/NK-04-03-00; MISP/PV-05-02-00; MISP/PV-05-03-00; MISP/TV-06-02-00; and MISP/TV-06-03-00.
- Public Procurement Officers and other municipal officials from Kotor, Nikšić, Pljevlja and Tivat trained in bid clarification and bid opening procedures, then tasked with convening and conducting pre-bid conferences and public Bid Openings for the above mentioned bid solicitations.
- Public Procurement Officers and other municipal officials from Kotor, Nikšić, Pljevlja and Tivat trained in evaluation and award procedures, then tasked with convening and conducting evaluations and contract awards for the above mentioned bid solicitations.
- Project Implementation Agreements signed for all remaining ICMA/MISP projects.

(D) Improve Municipal Constituency Outreach Skills

Citizen Participation Project Design:

Through the Partnership, a comprehensive citizen participation component has been designed to build awareness among our counterparts of the advantage and necessity of creating 2-way communication between government and its citizens and to build capacity and provide training for government officials to sustain an open and transparent system of government, which allows, encourages and empowers citizens to participate in decision-making at the local level. While serving to complement and reinforce existing activities, this citizen participation component will enrich democratic development of citizens and government officials and ultimately facilitate sustainable implementation of policy reforms.

- Continued coordination with the CRDA programs
- Talking to counterparts about the importance of the CRDA program

RESULTS/IMPACTS:

- Counterparts are continuously made aware of the importance and benefits of actively involving citizens in policy decisions, which affect them and have expressed a willingness to work in partnership with ICMA to develop further activities to strengthen participatory processes.

III. CHALLENGES AND ISSUES

CONTRACTOR DIFFICULTIES

Several construction projects are experiencing serious delays. This is due not only to contractor disorganization, but also because the bid prices of the selected contractors were substantially low and contractor unfamiliarity with the conditions imposed by the PPL. Implementation of several projects has also been significantly delayed due to unseasonable weather (rainfall much higher than the seasonal average).

For Pljevlja 1st and 2nd rounds the contractor, Nival, bid substantially under the original project cost estimate and is therefore experiencing trouble finding suitable subcontractors at an affordable price. This type of problem can be expected, especially with contractors inexperienced with the new PPL. Normally, this problem will manifest itself as an implementation delay or by the contractor cutting corners on quality. If time is not critical, such delays can be acceptable. However, ICMA/MISP is allowed only one construction season and the contractor is not able to ‘button up’ for winter and resume again in spring. This problem is especially acute with regard to paving operations, which cannot be undertaken in cold weather.

ICMA/MISP is working with the municipality of Pljevlja to identify subcontractors to help accelerate the Works for both projects. Under the PPL Conditions of Contract, the Contracting Authority can order the acceleration of the Works and pay a premium for it. ICMA/MISP is also pursuing direct payment to subcontractors for the accelerated work. This will provide the needed funding guarantees to secure suitable subcontractors while not rewarding the prime contractor for poor performance. ICMA/MISP is also working with the municipality and contractor, using the contractor's program/schedule to identify critical path items that can be started earlier – such as paving operations.

Berane 1st round is also expected to have delays that push the project too close to the onset of cold weather. However, the quantity of paving restoration is relatively small and ICMA/MISP is working with the municipality and contractor to start work earlier in the paved areas.

The 2nd round project in Kotor, and the 1st round project in Ulcinj are projected to complete in early February 2003, pending no further delays. The 3rd round project in Kotor, and the 2nd round project in Tivat are projected to complete in late January 2003, pending no further delays: The MISP ends on January 31, 2003, a no cost extension, under discussion, will rectify this problem.

MUNICIPAL RECIDIVITY

Municipal administrations in Montenegro suffer from several decades of minimalist public procurement practices. ICMA/MISP anticipated this during each construction procurement activity by designing clear rules and forms and providing detailed instructions for bidder evaluation and contract award.

Despite this effort to anticipate problems and to train municipal officials to act in accordance with transparent PPL evaluation and award procedures, some officials nevertheless tried to revert to the “old way” of public procurement. This problem manifested itself mainly in attempts – either through not so subtle disregard for the established procedure or rather disingenuous argumentation – to disqualify lowest apparent bidders and thereby move preferred bidders into position for contract award.

By including our staff on evaluation and award committees, maintaining constant oversight of these activities – and ultimately, reserving the right to approve all contract awards – ICMA/MISP was able to counter these attempts and to provide immediate feedback regarding correct procedures in particular and the rationale for transparent public procurement in general. However, this issue highlights the possibility of certain municipalities backtracking and even circumventing PPL provisions for establishing lowest cost bidders after the conclusion of the ICMA/MISP program. This problem will be compounded for municipalities not having had the benefit of hands-on MISP training

PROGRAM CHANGES

Two infrastructure projects (sewer extensions) in Berane were rejected relatively late in the program for environmental reasons – the municipality failed to obtain proper project approvals under Republic environmental requirements. This occurred at the same time as a new municipal administration, which was not involved with the approval process, was taking office. The new administration subsequently asked if anything could be done to help restore some of the financial aid and procurement training.

Cetinje initially dropped out of ICMA/MISP due to protracted political deadlock and chronic unresponsiveness from the outgoing administration. In August, a new municipal government in Cetinje approached ICMA/MISP asking to reenter the program.

It was too late in the program to arrange traditional construction projects for either Cetinje or Berane. The ICMA/MISP cooperative agreement, however, does provide for the procurement of solid waste equipment. ICMA/MISP decided that the spirit of cooperation should be extended to the new Berane and Cetinje municipal administrations and pursued the procurement of garbage trucks, containers and ancillary services. The time required for producing the necessary technical documents, bidding documents, issuing the tender, opening, evaluation and awarding – as well as the anticipated equipment delivery and payment schedules – is expected to push the closeout of these projects into the first half of February 2003. The ICMA/MISP program ends on January 31, 2003, and a no cost extension, under discussion, will rectify this problem.

IV. MAJOR ACTIVITIES PLANNED FOR THE NEXT QUARTER

(A) Improve municipal project planning and design capabilities

- Continue finalization of 2nd and 3rd round projects
- Provide hands on project specific construction administration training
- Provide additional interactive workshops
- Begin close-out procedures on projects completed next quarter

(B) Improve Municipal Financial Management Skills And Practices

- Continue to support the Partnership on the second round CIP process

(C) Familiarize municipalities with the new Public Procurement Law, and provide active municipal project management pursuant to the new law

- Conduct on-site opening, evaluation and award training to Public Procurement Officers and other municipal officials for the procurement of garbage trucks, containers and ancillary services in Berane and Cetinje using Montenegrin Public Procurement Law rules and forms.
- Open and evaluate the bids and – subject to USAID approval – award contracts to the lowest price bidders for solid waste projects in Berane and Cetinje.
- Work with ICMA/MISP partner municipalities during project close out to archive procurement records.
- Make progress payments to ICMA/MISP pre-qualified contractors in consultation with municipal officials and after verification of contractor payment request documentation.
- Make final payments to ICMA/MISP pre-qualified contractors after reconciliation of final contract costs and municipal financial contributions.

(D) Improve Municipal Constituency Outreach Skills

In conjunction with Partnership:

- Review adequacy of CIP citizen participation efforts for each municipality and request corrective actions as necessary
- Confer with municipalities on their citizen participation needs and assist with further efforts
- Assist and support 2nd round of Capital Improvement Plan development
- Continue to coordinate with CRDA