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QUARTERLY PROGRESS REPORT

Covering the period July 2020 through December 31, 2020

Fiscal Accountability and Sustainable Trade (FAST)

Effective Public Procurement for Kyrgyzstani Taxpayers



Co-Creation Work Planning Session, Ministry of Finance, Kyrgyz Republic Photo By: Olivia Gruzdova, USAID FAST

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QUARTERLY REPORT

Covering the period July 1, 2020 through December 31, 2020

Fiscal Accountability and Sustainable Trade (FAST)

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Acronyms

AMEL	Activity Monitoring Evaluation and Learning
CSO	Civil Society Organization
DAC	Development Assistance Committee
DPP	Department of Public Procurement
FAST	Fiscal Accountability and Sustainable Trade
GPA	Agreement on Government Procurement
LTTA	Long Term Technical Assistance
MAPS	Methodology for Assessing Procurement Systems
MoF	Ministry of Finance
PFM	Public Financial Management
PPL	Public Procurement Law
SCP	Strategic Communication Plan
STTA	Short Term Technical Assistance
TCB	Trade Capacity Building
TPPR	Transparent Public Procurement Rating
UNCITRAL	The United Nations Commission on International Trade Law
USAID	United States Agency for International Development
WTO	World Trade Organization

QUARTERLY PROGRESS REPORT

This is the first progress report and covers an extended period of performance between July and December 2020. It summarizes the project's efforts related to mobilization, staffing and progress on technical activities and results during the reporting period, including a discussion of progress against the illustrative work plan as well as the development of a revised work plan. This report also discusses some of the risks and challenges that the project faces and a separate section on budget and financial management.

I. INTRODUCTION

The Fiscal Accountability and Sustainable Trade (FAST) task order supports rapid, sustainable, and equitable economic growth in United States Agency for International Development (USAID) assisted countries by enabling USAID to bring a systems approach to addressing Public Financial Management (PFM; public revenue, budget, expenditure, and debt), trade capacity building (TCB), macroeconomic planning and policies, and other economic governance issues, such as regulatory reform, and by supporting missions to improve a) host-country capacity to mobilize revenue and provide public services; b) policy climate for investment that generates more productive employment and inclusive growth, including issues specific to women and disadvantaged populations; c) host-country ability to recover from, prevent, and/or mitigate the impact of conflict, natural disasters, or fiscal crises; and, d) host-country institutional capacity to identify, design, advocate, and implement better economic policies to enhance inclusive growth and gender equity.

“Effective Public Procurement for Kyrgyzstani Taxpayers” is a task (herein called the “project”) under FAST which seeks to improve self-reliance of Kyrgyz Republic by improving public procurement systems. The project seeks reforms in public procurement systems and processes to increase efficiency and transparency, and reduce corruption, as well as enable civic engagement in the conduct of public procurement operations.

The project has two objectives.

Objective One: Increase efficiency and transparency of public procurement

Objective Two: Enable civic engagement and oversight over the public procurement

Throughout the reporting period, FAST employed teleworking mechanisms while implementing social distancing. All FAST activities were conducted remotely. Despite the challenges presented by the teleworking set-up, FAST was able to work uninterrupted on the components. However, there were certain delays in the implementation of planned activities, due to this approach which are reflected in the illustrative work plan. Onsite work facilitated by travel would have been more efficient for project delivery. At this stage, FAST is performing smoothly with remote work and will be able to maintain the schedule for the work plan.

II. PROJECT IMPLEMENTATION

The project began in July 2020 when the entire Kyrgyz Republic including the capital city Bishkek was implementing shutdowns and social distancing. DevTech successfully put together a team of local and international consultants to begin the project implementation remotely with an expectation that by September, the team would be able to travel to Kyrgyz Republic. However, it turned out that the social distancing and other COVID-19 related disruptions would continue for an extended period. Therefore, the project operated entirely virtually to date which had implications for the schedule of the planned activities for the last quarter of the fiscal year 2020.

Technical assistance under the project is categorized in three broad categories. They include: (i) technical assistance aimed at improving technical capacity of the Ministry of Finance (MoF) Department of Public Procurement (DPP) and other procurement entities to conduct efficient procurement operations; (ii) technical assistance to the CSOs which aims to enable their participation in the public procurement tenders' oversight as well as building their capacity to better understand public procurement operations; and (iii) capacity building of both the DPP and procurement entities' staff and CSOs to efficiently and transparently conduct public procurement operations and monitor public procurement process. In addition, the project also seeks to improve the legal, regulatory and policy environment for public procurement operations while also helping to upgrade current procurement processes with the use of digital technologies which will help in reducing discretionary gaps that allow for corruption.

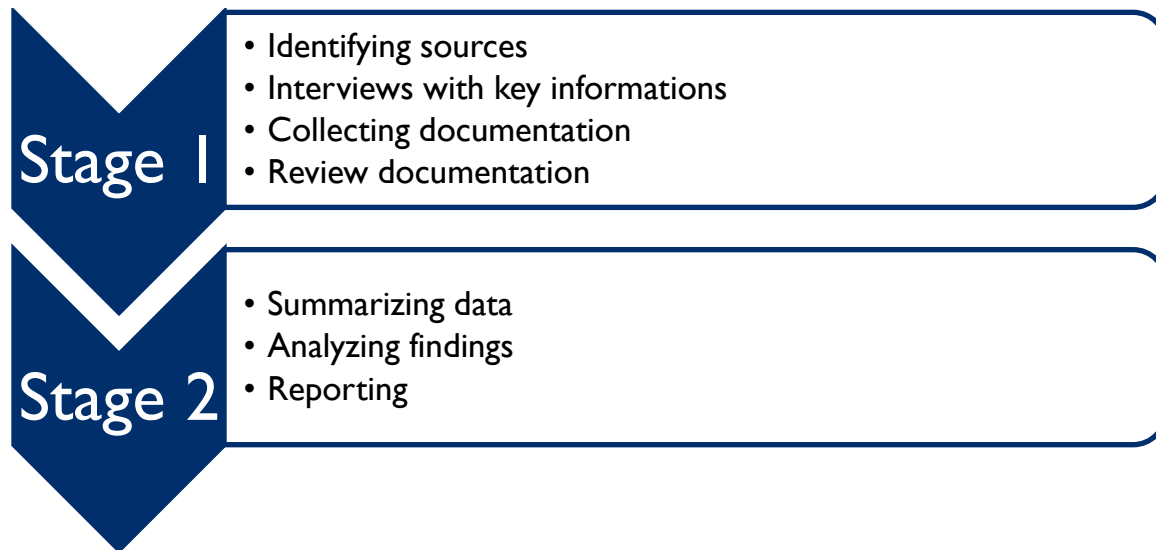
This progress report reflects on the progress made since the project's start date through December 2020. Following are key activities that were undertaken during the reporting period.

Scoping Study Report

Purpose: The purpose of the scoping study was to get a better understanding of the issues in the public procurement system that affect efficiency and transparency in the Kyrgyz Republic. This would also assist the team with developing the vision for the project.

Progress: The team began consultations with representatives of the DPP of the MoF and civil society organizations (CSOs) to get a good understanding of the issues with the public procurement system. The scoping study was conducted in 2 stages: Stage 1, Identifying sources and collecting information and Stage 2, Summarizing, analyzing, and reporting.

Figure 1: Stages of Scoping Study



The DPP provided invaluable assistance in identifying Key Stakeholders and arranging meetings. The project team held meetings with staff from the DPP, representatives from Civil Society Organizations and external public procurement experts. Due to COVID-19 conditions, these meetings were conducted remotely. The focus of these meetings was on gaining an overview of the procurement system and in identifying weaknesses and challenges.

In addition, the team also collected several documents, tools and studies and reviewed them thoroughly including procurement law and regulations; procurement reports; templates, charts, and other similar documents; a demonstration of and review of the procurement portal; articles, research papers and assessment reports pertaining to procurement in Kyrgyz Republic; documentation relating to other ongoing procurement related initiatives; and international public procurement standards and assessment methodologies.

The FAST team successfully completed the Scoping Study Report which was approved by the Activity Manager. The Scoping Study Report included identifying information sources, collecting documents and reports, interviewing key informants and stakeholders, analysis of the data and drafting findings. The report included several recommendations in support of improving efficiency and transparency in the public procurement system and improving civic engagement in the monitoring of public procurement in Kyrgyz Republic. These recommendations included, among others, the need for reforming the legal framework, strengthening procurement process and internal control framework, upgrading the electronic public procurement portal, and improving transparency and accountability. A final draft was submitted to USAID Bishkek in December 2020.

Detailed Assessment

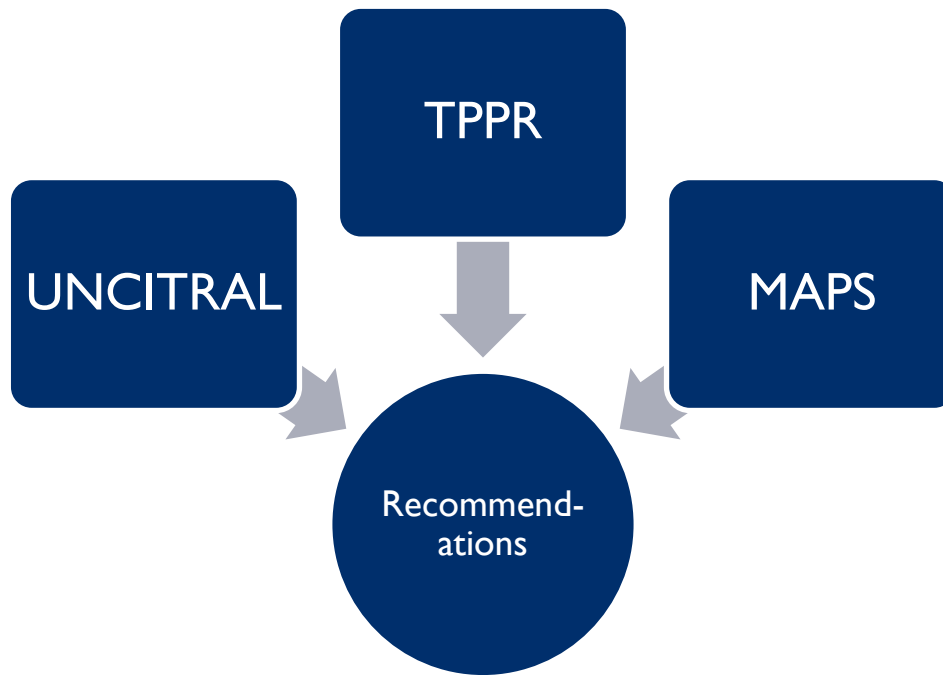
Purpose: The purpose of the Detailed Assessment is to perform a diagnostic of the public procurement system relative to international best practices. This included a comparison of Kyrgyz Republic’s public procurement law (PPL) with the UNCITRAL Model Law on

Public Procurement, an update of the Transparent Public Procurement Rating (TPPR), and an assessment using the Methodology for Assessing Procurement Systems (MAPS).

Progress: The FAST team began working on the “Detailed Assessment of the Public Procurement System” which includes; (i) a comparison of the public procurement law with UNCITRAL Model Law; (ii) an assessment of the Transparent Public Procurement Rating (TPPR), and Methodology for Assessing Procurement Systems (MAPS).

The three separate reports will outline gaps in the legal and regulatory framework and assess the public procurement system against international best practices.

Figure 2: Methodologies for Assessing Public Procurement Systems



The team has made significant progress on all three reports as detailed below.

The United Nations Commission on International Trade Law (UNCITRAL)

The United Nations Commission on International Trade Law (UNCITRAL) is the core legal body of the United Nations system in the field of international trade law. The mandate of UNICTRAL is to modernize and harmonize the rules of international business. The UNCITRAL Model Law on Public Procurement is aimed at assisting States in formulating a modern procurement law. The procedures and principles of the Model Law aim at achieving value for money and avoiding abuses in the procurement process. The Model Law reflects international best practice and is designed to be appropriate for all States. The Model Law has been prepared with a view to supporting the harmonization of international

standards in public procurement. As well as the Model Law itself, UNCITRAL has also published a “Guide to Enactment” and Guidance on procurement regulations to be promulgated to fulfil the objectives and implement the provisions of the law.

The Law of Kyrgyz Republic on Public Procurement (PPL) was first developed in 1997 on the basis of the 1994 UNCITRAL Model Law. Subsequently there were revisions, particularly a major revision in 2015 which adopted some aspects of the updated 2011 UNICTRAL Model Law in particular relating to e-procurement. Since 2015 there have been eight revisions aimed at improving aspects of the PPL. Nonetheless, these multiple piecemeal revisions have also incrementally modified the PPL away from the UNICTRAL Model Law. The purpose of this Assessment is therefore to conduct a comparison of the current PPL in its entirety to the UNCITRAL Model Law to identify areas of difference and propose recommendations required to close any gaps.

At the time of writing this report, an initial draft of the comparison has been completed and is now going through a process of review and quality control by the project team prior to being shared with DPP for validation. This report is expected to be shared with DPP by the end of January.

Transparent Public Procurement Rating (TPPR)

The TPPR Methodology is a tool to assess public procurement legislation from the perspective of transparency with a view to identifying the strengths and weaknesses. It has been developed by the Institute for Development of Freedom of Information (IDFI) within the framework of the project “Transparent Public Procurement Rating – Assessing Public Procurement Legislation and the Enforcement Process in the Eurasian Region”. The Methodology consists of 64 indicators arranged according to the procurement process, the general characteristics of the procurement system as well as more general transparency aspects.

An assessment of the public procurement legislation of Kyrgyz Republic using the TPPR methodology was conducted in 2018, as a result of which, a number of gaps were identified. The goal of updating the assessment again in 2021 is to measure progress since 2018, to identify current strengths and weakness; identify areas requirement improvement; and to provide a baseline against which to measure future progress.

At time of writing an initial draft of the assessment has been completed and is now going through a process of review and quality control by the project team prior to being shared with DPP for validation. This report is expected to be shared with DPP by the end of January 2021.

Methodology for Assessing Procurement Systems (MAPS)

The Methodology for Assessing Procurement Systems (MAPS) was originally created by a joint initiative of the World Bank and the Development Assistance Committee (DAC) of OECD, with involvement of a number of international and bilateral development organizations and partner countries. MAPS is an international standard and universal tool to assess public procurement systems in their entirety, with a view to identifying strengths and weaknesses to develop strategies and implement reforms. It is a detailed assessment

with 55 sub-indicators, each with multiple elements. These sub-indicators are structured into 4 pillars: Pillar 1 – Legal, Regulatory and Policy Framework; Pillar 2 – Institutional Framework and Management Capacity; Pillar 3 – Procurement Operations and Market Practices; and Pillar 4 – Accountability, Integrity and Transparency of the Public Procurement System.

An assessment of the public procurement system of Kyrgyz Republic using MAPS was conducted in 2012 jointly by the World Bank and the Asian Development Bank as a Country Procurement Status Review. However, since 2012, there have been extensive reforms in public procurement in Kyrgyz Republic. The purpose of conducting the MAPS assessment in 2021 is to identify strengths and weaknesses of the system, to provide input into the procurement strategy for the coming years and to set a baseline against which to measure future progress.

The project team is currently in the process of conducting the MAPS assessment. The assessment exercise is taking longer than planned as a result of the remote working arrangements which has made the data collection exercise more challenging than normal. This report is expected to be completed in February/March, 2021.

Co-Creation Work Planning Workshop

Purpose: The purpose of the “co-creation work planning workshop” is to take an inclusive approach to designing the work plan and implementation arrangements where USAID brings people together. Through this process, project stakeholders define a problem collaboratively, identify new and existing solutions and build consensus around the planned course of action.



Progress: During the reporting period, the FAST team conducted a four (4) day long “Co-Creation Work Planning Workshop” with the DPP of the MoF and with representation of USAID Bishkek between December 9 and 23, 2020. In this workshop, participants reviewed the original illustrative work plan, presented new areas for technical assistance and other areas which were not part of the original scope of work, but which were key to improving efficiency, transparency, and accountability of the public procurement system.

Separate sessions were held with both the DPP staff and representatives from CSOs.

The workshop resulted in specific technical assistance interventions that will be implemented over the remaining life of the project. These interventions are categorized in three broad categories under the two overarching project objectives. They include;

- Technical assistance activities aimed at improving technical capacity of the DPP and other procurement entities’ staff to conduct efficient procurement operations

- Technical assistance activities for the CSOs community which aim to enable their participation in the public procurement tenders' oversight as well as building their capacity to better understand public procurement operations; and
- Capacity building of both the DPP and procurement entities' staff as well as CSO members to conduct public procurement operations and establish effective oversight mechanism to monitor public procurement contracts efficiently and transparently. The latter will ensure that there is a CSO engagement strategy in place which will guide CSO's engagement in both the information sharing process and decision-making process.

As a result, a comprehensive workplan was developed which includes several interventions. They relate to reforming the legal and regulatory framework of the public procurement system, assistance in developing a negotiation package for Kyrgyz Republic's planned accession to the World Trade Organization (WTO) Agreement on Government Procurement (GPA), institutional development of the DPP, improving public procurement cycle management, strengthening procurement operations, and strengthening electronic procurement. In relation to increasing transparency and accountability of the public procurement system, other activities include developing a CSO engagement strategy, establishing mechanisms for civic oversight and capacity building of staff from DPP and other procurement entities as well as representatives of CSOs.

The work plan was submitted to USAID Bishkek on December 31, 2020 for feedback and inputs. Following the approval of the work plan, implementation will be accelerated to ensure that all planned activities are completed in a timely manner.

III. MANAGEMENT AND REPORTING

Activity Monitoring, Evaluation and Learning (AMEL) Plan

The FAST team began developing an Activity Monitoring, Evaluation and Learning (AMEL) plan which will assist the team in tracking progress on specific project indicators including those from USAID Financing Self Reliance. A draft plan is being developed and will be submitted for USAID's review and approval by January 31, 2021.

Strategic Communication Plan (SCP)

Following the completion of the project's work plan, the FAST team began developing a Strategic Communications Plan (SCP) which will guide the project's staff and consultants in promoting the project's goals and objectives as various planned technical interventions are implemented. This document includes guiding principles that form the basis the communication strategy and will include several communication activities, engagement tools and tactics to help communicate analytical work, results achieved and success stories.

The SCP will also assist in ensuring that USAID's branding and marking requirements are followed and that the assistance provided using American taxpayers' funds is recognized by the project's audiences including the Government of Kyrgyz Republic, CSOs and other development partners. The draft SCP will be submitted for USAID's feedback and approval by January 31, 2021.

Management

Following the project's initiation, a team of international and national procurement experts was put in place to begin the implementation. Two international procurement experts and a national procurement expert were recruited on short term technical assistance (STTA) basis. The team is led by John Yates, DevTech's Executive Director for Public Finance and is supported by Niaz Shinwari, DevTech's home office project manager.

Table 1: Management and Staff

Effective Public Procurement for Kyrgyzstani Taxpayers		
S.No	Name	Title
1	John Yates	Team Leader and IT Systems Expert (Home Office)
2	Kirsten Jensen	Senior Procurement Expert – Standards
3	Judi Shane	Senior Procurement Expert – Standards
4	Oleg Pakhomov	Senior Procurement Expert – Standards (Legal Reforms)
5	Timur Cherikov	Procurement Expert (LTAA – Nathan Associates)
6	Niaz Shinwari	Program Manager (Home Office)

Given the extended nature of the existing travel restrictions, the plan is to expand the team and recruit additional local staff members within the approved budget. As of the time of this writing, jobs announcements are already made for recruiting an IT systems expert who will work on the electronic portal under the overall guidance from the Team Leader and a local procurement expert who will work closely with the two international consultants on implementation of various planned activities.

An additional local staff member, the procurement specialist will be recruited in February 2021.

Registration and Office in Bishkek

DevTech engaged ARTE, a local law firm in Kyrgyz Republic to assist with registering DevTech as a commercial business entity and provide other legal services. ARTE provide legal services to domestic and foreign businesses, international and non-commercial organizations, and financial institutions operating in the Kyrgyz Republic. The same entity may be recruited to process the monthly payroll and advise on other legal matters as the implementation accelerates. The registration process has already begun, and we expect that by March 2021, DevTech will be a registered business entity in Kyrgyz Republic.

The FAST team was provided an office space within the DPP at the MoF. Currently, the office space is being used by the local staff. During the on-going quarter, the office will be equipped with additional furniture to accommodate project's staff and consultants while in Bishkek.

IV. RISKS AND CHALLENGES

The project began in challenging times when the entire world including Kyrgyz Republic was on lock down as the deadly pandemic continued to take high tolls. In addition, several other risks and challenges exist that have either already impacted the project implementation or carry high risk. The team will remain vigilant of these risks and will implement mitigation measures to minimize potential adverse impacts. In parallel, the project team will regularly report and keep USAID and DPP posted if any of these risks would result in delaying the implementation of project activities.

COVID-19

COVID-19 has fundamentally changed the way the world operates. In the same way, it has also impacted the implementation of development projects. During the proposal stage, DevTech anticipated that COVID-19 and related travel restrictions will be relaxed by September 2020 and the project team would be able to travel to Kyrgyzstan and implement the project. Precisely, that was the reason that the project was planned in two phases; phase I included conducting a Scoping Study remotely between July and September while phase II covered the remaining life of the project.

However, the prolonged nature of the pandemic has negatively affected the project implementation. Consultants have not been able to travel to the field as the time of this writing. That said, the team was able to complete the scoping study report remotely and has been conducting the “detailed assessment” including PPL’s comparison with UNCITRAL Model Law, TPPR and MAPS assessments remotely. The project team also developed a workplan with an assumption that travel restrictions related to COVID-19 will relax sometime between the second and third quarter of FY 2021. If the pandemic and related travel restrictions are not over by then, this will risk delaying some of the planned activities and will affect the quality of the technical deliverables and interventions.

Political Uncertainty

The project began in an election year with largely contested parliamentary elections. Following the parliamentary election chaos and the emergence of a higher-level political uncertainty regarding the presidential elections, some of the planned consultations were delayed during the first quarter of FY 2021. The team was also advised by the Activity Manager to proceed cautiously during this period in case there were changes in government that would impact the project.

The project’s team is confident that now that presidential elections is successfully concluded, there will be less political uncertainty and project implementation should proceed as planned.

Appetite and Political Will for Reforms

Several planned activities require political will on part of the Government of Kyrgyzstan and their implementation is dependent on factors outside the project’s reasonable control. Currently, the project team operates under certain assumptions with regards to political will on the part of the government as indicated by the DPP. If those assumptions turn out

to be untrue, certain activities may need to be dropped. The team will keep USAID posted of any such developments as they arise.

Limited Resource Availability

The project has limited funds available. Initially the project was assumed to be implemented mostly using STTAs to implement planned activities. The co-creation work planning resulted in the need for; (i) additional activities based on the requests received from the DPP; and (ii) the need for employing fulltime local staff members to implement certain activities.

The project team estimates that we will be able to implement additional activities and fund additional costs of local employees within the overall budget ceiling due to reduced travel costs, given the reduced number of planned trips by international staff. However, implementation of additional activities may be constrained, and in that case, the project team will make sure that USAID and DPP are made aware in a timely manner. In such circumstances, the project team will propose the needed adjustments to the scale of activities for USAID approval and DPP's concurrence.

V. BUDGET AND FINANCIAL RESOURCES

The project has an aggregate budget ceiling of approximately \$1.5 million that will be executed over the life of the project. There may be some internal adjustments between the direct and indirect costs as the implementation advances, and the project team will make USAID aware during the quarterly and annual progress reports.

As of December 31, 2021, the project has expended a total of US\$116,692.24. The total estimated accrued expenses add up to US\$158,258.67. This results in an average monthly burn rate of about \$26,000.00 whereas the required burn rate is approximately \$55,555.00.

Since the project team has been operating remotely and the “co-creation work planning” workshop and the resulted work plan development process was concluded in last December only, the project team expects that the burn rate will significantly increase in the upcoming months as the team begins implementation of several planned activities. In addition, DevTech is implementing this project jointly with Nathan Associates. Nathan Associates have not provided their invoices for the last four (4) months, meaning that approximately \$40,000.00 additional expenses are accrued as of December 31, 2020.