



Regional Infrastructure Program, 2001–2005

A USAID Initiative in South East Europe

Public Procurement Agency Institutional Development Program

*Albania
December 2002*



Booz | Allen | Hamilton

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1. EXECUTIVE SUMMARY

The government of Albania is the recipient of a Public Administration Reform Loan from the World Bank. The loan includes Technical Assistance to the Public Procurement Agency (PPA). The PPA is about to receive the technical assistance included in the loan. The technical assistance is envisioned to improve the procurement legislation and to strengthen the agency in general. Under the Regional Infrastructure Program (RIP), Activity A-17 assisted/prepared the PPA to receive the technical assistance under the loan and prepared them to make the best use of their resources.

The assistance provided under A-17 consisted of the assessment of the existing processes and procedures. The review of the regulatory framework and compiling of the currently used procurement laws and procurement related legislation. And, the conduction of several training activities to build capacity within the PPA and other Albanian entities in charge of national public procurement.

Regarding processes and procedures, it was concluded that the PPA follows the normal processes expected from a public procurement entity. The main conclusion was that to have a more effective, transparent, stable and impartial PPA, it should be established as an independent government entity and its staff should be granted civil servant status. Also, an Information Technology (IT) Solution to keep track of procurement was developed and the software was installed in one of the PPA computers, and, a step-by-step software user's Manual was prepared and delivered to the PPA.

With respect to the current legislation, under A-17 a compilation of all the existing laws and decrees was prepared. This compilation was assembled electronically and in a notebook, and distributed to several procurement entities throughout the government as well as, other USAID financed projects. Regarding the adequacy of the existing legal framework, it is considered adequate. What it was determined to be missing, are specific procurement regulations and guidelines as well as the development and implementation of standard procurement documents and user's manuals.

With regards to capacity building, several training activities were implemented. They ranged from workshops, to training sessions, to lectures about procurement. The workshops covered a wide spectrum of procurement topics and provided a forum for the PPA staff to express their opinions on how to improve the agency and the procedures being utilized. The training was designed to equip the PPA with a basic tool to conduct their own training as well as, to train other procurement entities. The lecture topics covered were, World Bank procurement, procurement in Europe and an overview of the Albanian procurement practices. These lectures were delivered by procurement specialists and were designed to augment the procurement knowledge of the PPA staff. In addition, to improve the English language knowledge of the PPA staff, an English training proposal was prepared. This proposal is on its way to be funded by a donor agency in Albania.

The experience gained by the PPA staff during the conduction of activity A-17, helped to strengthen their capacity to handle their function in public procurements and prepared them to receive the Technical Assistance financed under the loan from the World Bank. Still much remain to be done regarding the application of general accepted principles of good procurement, the formulation of a procurement strategy, the preparation of procurement rules-regulations and guidelines, and above all, the building of capacity within the PPA.

If the recommendations given in this report concerning the legislation, rules and regulations; capacity building and training, are implemented, it will help to solve procurement issues, and handle in a more effective and efficient manner the public procurement function. The recommendations are presented in four groups: process and procedures; legal aspects of procurement, procurement workshop, and training.

Activity A-17 was successfully concluded in November 2002 and this Final Report was prepared in December 2002.

2. INTRODUCTION

The government of Albania is the recipient of a Public Reform Loan from the World Bank. The loan includes Technical Assistance to the Public Procurement Agency (PPA). The PPA is about to receive the technical assistance included in the loan. The technical assistance is envisioned to improve the procurement legislation and to strengthen the agency in general. Under the Regional Infrastructure Program (RIP), Activity A-17 assisted the PPA to receive the technical assistance under the loan and prepared them to make the best use of their resources.

The assistance provided under A-17 consisted of the assessment of the existing processes and procedures. The review of the regulatory framework and compiling of the currently used procurement laws. And, the conduction of several training activities to build capacity within the PPA and other Albanian entities in charge of national public procurement. This Final Report is organized in the order the assistance was provided to the PPA.

Chapter 3 provides an overview of the goals and objectives envisioned under the activity.

Chapter 4 describes the activities carried out in terms of processes and procedures, an analysis of the current legislation, and the capacity building activities that were implemented.

Chapter 5 contains conclusions and recommendations. Also there are four appendixes providing details about the IT Solution prepared, the Procurement Workshop, the training and the English language proposal.

3. PROJECT GOALS AND OBJECTIVES

The goal for this activity focused on two main tasks. Task 1 aimed to strengthen the institutional and organizational development of PPA to enable it to fulfill its role as a key governmental agency for handling the procurement at the national level. Task 2, aimed to strengthen the PPA's procurement and contracting skills, and build PPA's training skills and delivery capacity.

Under Task 1, the technical assistance prepared the mapping of the existing PPA processes and procedures, and drew recommendations and suggestions for improvement; compiled the current procurement laws and regulations; and provided an IT solution for handling procurement documents.

Under Task 2, the technical assistance developed target workshops for ministry-level procurement commissions to introduce uniform procurement standards and practices. Developed and conducted a Train The Trainers training session for the PPA staff to build training skills in program and curriculum design, and workshop preparation. Delivered and organized procurement lectures related to national and international procurement experiences. These lectures envisioned to enhance PPA knowledge on procurement practices

4. ACTIVITIES CARRIED OUT

4.1 Activities under Task 1 – Strengthening and institutional Development

The technical assistance on strengthening the institutional and organizational development of the PPA, started by identifying the processes and procedures followed by them, the procurement legislation, the rules and regulations, and the issues affecting them. In addition, RIP consulted with top PPA management and procurement commissions at the line ministry levels to identify key issues and obstacles facing each other.

The most critical problems detected were related to the lack of use of uniform standardized procurement documents; lack of a fluid communication and understanding between PPA and the line agencies handling procurement; and the need for improving the internal operational rules and regulations.

To help solve the critical problems identified, RIP examined the existing situation, consulted frequently with the PPA and contacted the procurement offices at different ministries. The result of these consultations and contacts were, the mapping of processes and procedures followed by the PPA when carrying out their procurement duties; the provision of an IT solution to keep track of their procurement; and the compilation of procurement laws and regulations being used currently. Also, solutions and recommendations were prepared and discussed with the PPA. Specifically the following took place.

4.1.1 Process and Procedures

The role of the PPA is set forth in article 8 of the Law on Public Procurement. The PPA Director reports to the Council of Ministers (CoM) and the PPA is the central organ for coordination and in charge of the general direction for the public procurement process in the country. The Director of the PPA is appointed and dismissed by the Prime Minister.

The following were RIP findings in terms of the role of PPA; the administrative functions; and the process of procurement.

According to the Law, the role of the PPA consists of.

- Submitting of proposals for procurement regulations to CoM.
- Promoting and supporting training of the central and local government officials engaged in public procurement.
- Editing and issuing of a Public Procurement Bulletin, which outlines tender invitations and other procurement related to announcements.
- Preparing standard documents to be used in public procurement.
- Giving instructions, advice, etc. to procuring entities.
- Presenting an annual report to the CoM regarding the overall functioning of the procurement system.

- Inspecting the records of procuring entities to the extent it deems appropriate to check on proper application of the law.
- Performing administrative review of complaints.
- Cooperating with international entities on matters associated with public procurement. And.
- Planning and coordinating foreign technical assistance to Albania in the field of public procurement.

On the administrative side, the State funds and budget are approved by Parliament and sent to the President. They are decreed by the President and become legal. The Minister of Finance then approves the individual ministries' budgeted funds. Each ministry has a procurement entity. The funds are spent on in house procurement and are allocated to entities subordinate to the ministry. There are procurement groups or units in each ministry and in subordinate groups. The procurement units prepare the tender documents while the evaluation commission evaluates the tenders.

In the procurement process the Head of the Entity issues a procurement order and the procurement unit prepares the documents. The procurement unit and the commission head prepare the technical specifications and the evaluation criteria. The unit through a bulletin, newspaper or short list makes an announcement. After the bid opening, the procurement unit and the evaluation commission meet. The commission evaluates and classifies the offers. At this point, the commission's duty ends. The classification is sent to the head of the entity. If the head of the entity doesn't agree with the classification, he sends it back to the evaluation commission. The contract is signed and the terms and conditions are implemented.

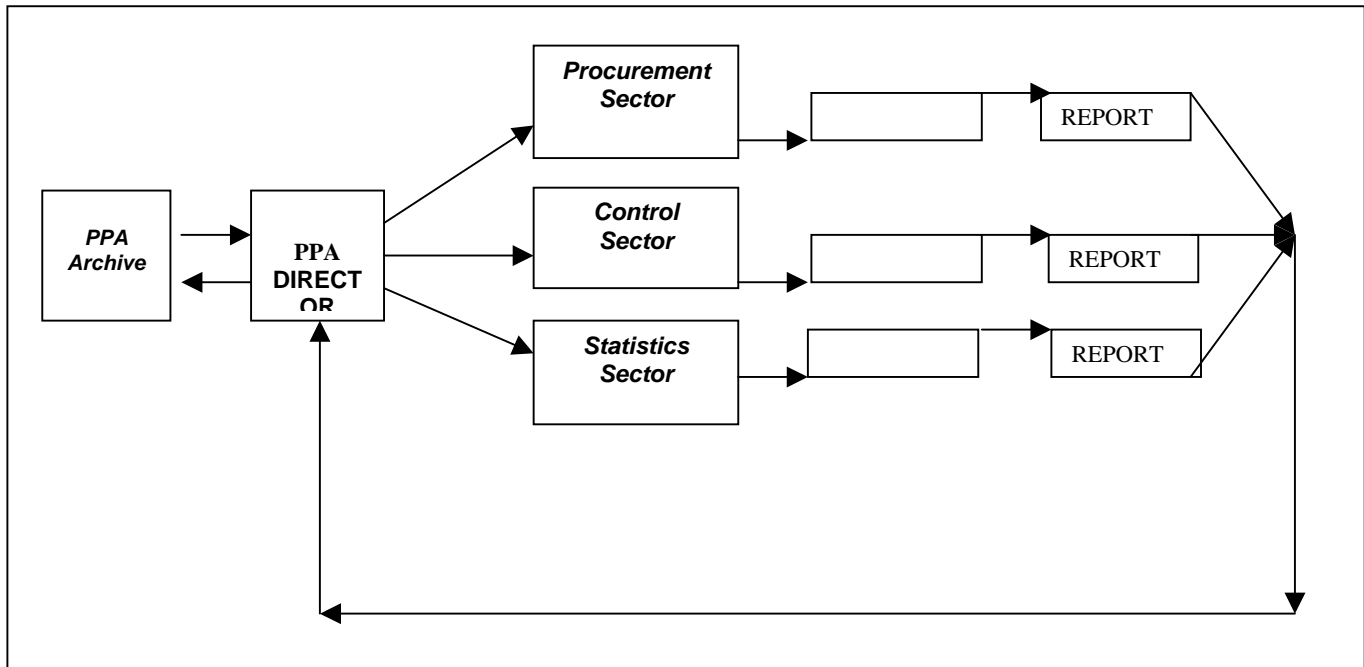
Albanian Procurement thresholds. If the procurement value is less than five million Leke, the head of the procurement unit approves the tender. If the procurement value is greater than five million and less than one hundred million Leke, the minister will approve the contract.

After all procedures are finished, the file documenting all the procurement actions is sent to the archives.

The Procurement Unit (PU) sends a report to the Ministry Procurement Unit, who sends a report to the Minister. This entire process must take place in twenty days. The Ministry Procurement Unit may ask the PU for its entire file. If the procurement value is greater than one hundred million Leke, the PPA will approve the report. This entire process must take place in thirty days.

4.1.2 Flow of Documents

Figure 4.1.2 – 1 illustrates the flow of documents within the PPA.



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Figure 4.1.2 -

Documents are received and copied into the archives. A form is filled out, and the documents are sent to the PPA Director. The Director prepares instructions and sends them to one of the three sectors: Procurement; Control; or Statistics. The Sector Chief records the title and date and passes the papers to a specialist who prepares a report for the Chief. The Chief monitors the specialist. After review, the sector chief submits the report to the Director. A copy of the documents remains in the particular sector.

4.1.3 Procedures

Depending on the type of document, the PPA follows different procedures:

- Requests for legal interpretation results in “Answers”.
- For client claims on procurement procedures, the Director stops the tendering process when the documents arrive at PPA, this results in an “Interruption”.
- The PPA has no authority to review and consider a complaint once the contract is signed in accordance with Article 43 of the Procurement Laws.
- PPA has the right under Article 7 - 3 of the law to get tender documents and review them.

However, the PPA cannot interrupt a contract. There are two cases of PPA involvement in a review. One is when the contract is agreed and signed. The other is when the contract is not signed. There may be corrections proposed; and the decision of PPA is final. The Director of PPA makes the final decision. PPA also has the right to cancel bids.

4.1.4 Information Technology Solution

Based on the PPA's need to automate the information on public procurement, an IT solution was developed and installed at one of the PPA computers. The solution is a database that provides information on each tender based on the type, selected procedure, financing sources, object, tendering date, procurement entities, tender's content, etc. A Step-by-Step Manual was produced and could be used as a training guide for PPA staff.

Appendix I contains the Step-by-Step manual for using the IT solution.

4.1.5 Laws and regulations

In cooperation with the PPA and procurement agencies at the line ministries, a compilation of laws and regulations was created. The compilation includes the Public Procurement Law and Standard Bidding Documents. The compilation prepared is available in hard copy and digital form, and contains:

- Law No. 7971, dated 26.07.1995 "On Public Procurement"
- Decision No. 335, dated 23.06.2000 "On Public Procurement Regulation"
- Guidelines No. 1, dated 01.01.1996 "On Public Procurement"
- Guidelines No. 3, dated 02.19.1996 "On small Value Purchases"
- Standard Bidding Documents – for Goods
- Standard Bidding Documents – for Construction.

The compiled legal documents (as shown in the Appendix II) were made available to PPA and its clients both in electronic and hard copy, during the workshop on Public Procurement organized by RIP in Tirana, on July 2-3, 2002. In addition, these documents were made available to other USAID financed projects.

4.2 Activities under Task 2 – Public Procurement Agency Capacity Building and Training

RIP conducted a training needs assessment of the PPA and other agencies handling procurement at within the government. Based on the needs identified, RIP organized the following training activities.

4.2.1 Procurement Workshop

One of the most critical needs identified was the improvement of communications between the PPA and other entities handling procurement and the need for current standardized laws and regulations. To help satisfy these needs, RIP organized a Workshop on Public Procurement that was held in Tirana on July 2-3, 2002.

In preparation for the workshop, RIP visited and interviewed most agencies handling procurement in Albania. This included ministry offices, para-governmental agencies and two municipalities. During these interviews, the procurement professionals were asked to identify

critical issues that in their opinion affected the procurement process. These issues were prepared as case studies that later were presented and discussed during the workshop. The identification, preparation and discussion of these cases, provided a great opportunity for RIP to become familiar with the procurement issues affecting Albania. Also, gave an opportunity to the procurement professionals to express their ideas, and vent their frustrations and suggest improvements.

During the conduction of the workshop, each day was divided into a morning and afternoon sessions. The first morning included a welcoming; the role of RIP and Booz Allen Hamilton in the Balkans and Albania. This was followed by a keynote addressed by the Director of PPA. Then RIP findings and recommendations were presented. The morning session was concluded with a presentation about improvements of the procurement law and regulations and the function of an inter-ministerial commission on law improvement. Details of these presentations are provided on Appendix 2.

The afternoon sessions consisted of the presentation and discussion of procurement cases (cases are presented at Appendix II) such as direct procurement, special requirements of unique sectors, etc. At the end of each session group findings, conclusions and recommendations (see Appendix II) were presented into a plenary session. The second day continued with the group discussion of case studies, and presentation of their findings, conclusions and recommendations in a plenary session.

A detailed workshop program is presented in Appendix 2. 36 participants attended the workshop. A list of participant's name, institution and address is presented in the Appendix 2.

At the end of the workshop, participants were provided with hard and electronic copy of the compilation of procurement laws and regulations (see Appendix II)

RIP prepared an evaluation report based on the workshop evaluations that were filled out by the participants. The evaluation report is provided at the Appendix II.

4.2.2 Train the Trainers Session

In order to improve the skills of the PPA staff in training methodology to help them to respond to the training needs of the user agencies, RIP organized a two-day TTT activity. This activity took place in Tirana from 7th to 9th of October 2002. The TTT was focused on the four steps of the training process; how to write training objectives; how to prepare and conduct a training session; how to evaluate a session and a training course. Detailed program of the workshop is provided in Appendix 3.

This training was attended by the entire PPA staff (participant's name are provided in Appendix III).

A TTT guidebook in Albanian and English was prepared by RIP and distributed to each participant. The guidebook is presented in Appendix 3. This guidebook was the reference material used for conducting the TTT training. In addition, a Trainers Notes document was prepared (see Appendix III). To help the participants become future trainers, a participatory

approach was used and all participants were actively involved during the entire training. The approach was praised and well received by all participants.

4.2.3 Procurement Lectures

To increasing PPA staff training capability and procurement knowledge, a series of lectures on various aspects of procurement were held with PPA. The lectures included Procurement according to the WB practices (See Appendix III); Albanian Procurement (See Appendix III); and Procurement based on the European procedures (see Appendix III). These lectures were attended by the PPA Procurement and Legal sector (see participant's lists in Appendix III).

4.2.4 English Training

Based on the needs of PPA staff to improve their English knowledge, and to prepare them to handle documents and interactions in English, RIP prepared an English language-training proposal for PPA. This proposal was made available to the PPA to find appropriate funds for its implementation. (See Appendix IV).

5. CONCLUSIONS AND RECOMMENDATIONS

The conclusions and recommendations are presented under the following headings, process and procedures, legal aspects of procurement, the Procurement Workshop, and the TTT session.

5.1 Process and Procedures

Based on the revision of the PPA role and responsibilities, the following conclusions and recommendations are presented.

Conclusions

- PPA is not a fully independent body.
- PPA staff should get the civil service status.
- There is an insufficient budget to run the operations of PPA, and an obvious lack of other basic resources, such as, space, and basic office equipment.
- There is a need to continue training the PPA staff, to enable them to increase their professional skills.
- There is a need to provide procurement-training courses to other procurement entities within the government.
- There is a need to continue the dialogue with the procurement entities.

Recommendations

- To perform its duties effectively, PPA should be moved out from under the CoM and given autonomy. The PPA should be independent agency.
- PPA staff up to the sector heads should be given civil service status. The director should be appointed to at least a seven-year term. The current non civil service status renders PPA very weak in their relationship with CoM.
- PPA needs a bigger budget and physical resources including office space, computers, training aids and transport. More people will be needed in the future as well. With respect to sector organization, we recommend leaving it as it is presently organized.
- The present staff must be continuously trained in procurement. Only one sector chief has a procurement certificate. Others have attended a few workshops. PPA needs additional people with procurement experience. The present staff, with a few exceptions, does not have many years of experience beyond their formal education.
- There must be effective contact with the procurement entities and accountability. Workshops with the procurement entities are necessary and should be organized without delay. Workshops offer an opportunity for two-way communication, and are a good opportunity for PPA to learn about the concerns and problems of the procurement units, and for the procurement units to learn about the proper way to prepare proposals, as well as PPA's obligations under the law. The workshops also could serve as an incubator for ideas to suggest amendments for CoM to make the law facilitate the procurement process

while maintaining an open and transparent procurement system. PPA needs one or two trainers added to its staff as soon as possible to train the procurement units in proper procurement procedures and fulfill its training mandate under the law. Donor funding should be identified to enable members of PPA staff to undergo on the job training in foreign procurement units.

- If not already the policy of PPA, the PPA should not only explain their decisions to the procurement units but also maintain a dialogue and give the units the opportunity to defend their decisions.

5.2 Legal Aspects of Procurement

The following are the conclusions and recommendations based on the revision of the laws, regulations and guidelines on Public Procurement, as well as Standard Bidding Documents:

Conclusions

- The legal information was not complete and up to date
- In general, the laws, regulations and guidelines reviewed were in accordance to the international standards and equitable.

Recommendations

1. The following clauses of the Law 7971, dated 26.07.1995, should be modified:
 - Article 8, Section 4, gives the Prime Minister the right to appoint an inter-disciplinary consultative board made up of representatives from major procuring entities to give comments and advise on the functioning of the procurement system in Albania and on proposals submitted by PPA for consideration by CoM. - *This is a duplicative effort. If PPA was independent of the CoM, it would be acceptable, but CoM already has a consultative board and it is PPA.*
 - Article 17-3, indicates the CoM may permit the use of open tendering in situations not foreseen in the law. - *This article allows capricious use of the procurement law by CoM. It bypasses safeguards set in place under the law. The procuring entities should be required to request a variance from PPA. Art. 8, Sect. 2 d) designates the task to PPA to give instructions, advice and assistance to procuring entities in undertaking procurement.*
 - Article 30, requires the tender envelope to contain a separate documentation for the qualification of the candidates and the technical-economic tender in two separate envelopes within it. - *Modify to require one encompassing volume in one envelope. This will comport with international practice.*
 - Article 37 Section (2), indicates direct procurement for small value purchases of readily available goods requires no contract or other documents when the contract price does not exceed an amount stated in the regulations. - *This should be re-drafted with limits specified. Regulations allow up to one million lek of direct procurement. Such an amount should at least require a purchase order.*

- Article 43 Section (2)(c), exempts from administrative review an act by a procuring entity taken with the consent of CoM. - *Delete. This is arbitrary and could lead to abuse of power.*

In addition, the following should be modified in the guidelines:

- Article III, 3.1), states "The bill of quantities of the final design_____shall not surpass the amount of the preliminary bill of quantities_____. If it is not so, the contract security of the designer will be forfeited." *This could be a minor variation with a very severe penalty. It should be deleted or modified to significant limits.*
- Selection of design services is not in accordance with international standards. Two stage tendering outlines a first step in which candidates submit a preliminary bill of quantities with unit prices furnished by the procurement entity and with details. The procuring entity decides on the best offer with the preliminary bill of quantities, announces a second stage tender to obtain tenders for the price of the design. At that point, price is the only criterion. *It appears that the purchaser of services uses the best design obtained from the first step and uses it as the basis for a low price bid on stage 2. International standards for procuring design services in two steps consist of rating the qualifications of the firms in step one; and then directly negotiating with the best evaluated proposal for price of the professional service.*
- Article IV Commissions. Sets forth the procedure for opening the two envelope tendering system outlined in Art. 30 of the Law. Tenders are submitted in two envelopes and the qualification envelope is opened first. Those tenderers that have not fulfilled the qualification requests are immediately disqualified. The surviving technical and economic envelopes are then opened. *There are two acceptable and preferable alternates to this system. The first is to use pre-qualification, so that only qualified bidders incur the expense of preparing a bid. The second is to use a qualification system, and open all the envelopes of all bidders. Use a proper amount of time in the evaluation process to determine if the bidders are qualified or to seek clarifications on submitted materials. Unless there is a glaring omission such as bid security, a commission should not be performing detailed examinations at the bid opening.*

5.3 Procurement Workshop

Regarding the Public Procurement Workshop, the following conclusions and recommendations are provided:

Conclusions

1. A number of questions during the workshop could have been answered had the participants read more carefully the bid documents
2. Participants demonstrated that they needed procurement training in a number of specific areas such as:

- Bid Evaluation;
- Preparation of well defined bid documents
- Direct Procurement
- Reliable cost data for budget prices (Limit Fund)
- International practices
- Need for international bidders to provide documentation required by procurement agency, etc.

Recommendations

1. PPA staff should become more familiar with procurement documents on a periodical base.
2. It is recommended to repeat this type of workshops at least ones a year covering topics such as:

- Bid Evaluation;
- Preparation of well defined bid documents
- Direct Procurement
- Reliable cost data for budget prices (Limit Fund)
- International practices
- Need for international bidders to provide documentation required by procurement agency, etc.

5.4 Train the Trainers Session

Train the Trainers and Lectures conducted with the PPA staff were useful events the conclusions and recommendations based on which are presented in the following:

Conclusions

1. There was a need for PPA staff to get familiar with training techniques and practice them.
2. Lectures on WB and European Procurement practices served as a considerable source of additional knowledge for PPA staff.

Recommendations

1. PPA staff needs further assistance during the preparation and conduction of the first training courses with procurement entities. Hands on training will further strengthen their training skills.
2. Lecturing on international practices on procurement should be provided to PPA staff on periodical bases, so PPA will be informed with the latest rules and regulations on the international procurement procedures, and refer to them as guidelines for further improvement of the Albanian Law on Public Procurement



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APPENDICES TO THE MAIN REPORT



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APPENDIX I

IT SOLUTION FOR PPA PROCEDURES - STEP BY STEP MANUAL

No English Version Available



U.S. Agency for International Development



RIP - ALBANIA



**Balkans Regional Infrastructure Program
for Water and Transport**



IT Solution for PPA procedures

Step by Step Manual

DECEMBER 2002

APPENDIX II

PUBLIC PROCUREMENT WORKSHOP

- 2.1 Program and List of Participants**
- 2.2 Presentations**
- 2.3 Compiled Legal Documents**
- 2.4 Group Findings and Recommendations**
- 2.5 Evaluation Report**

Appendix 2.1: Public Procurement Workshop Program

PURPOSE: Improve communications and understanding between PPA, line Ministry staff handling procurement, the two biggest municipalities in the country and the private sector.

PREPARATIONS: RIP staff has established first contacts with possible participants, to explain the purpose of the workshop, and their contribution through cases that will be presented during the workshop. This dialogue will continue throughout the preparation phase.

A brief session will be organized with PPA prior to the workshop. This session will aim to provide PPA with the general idea behind the workshop.

WORKSHOP The workshop will be organized in (i) plenary session,

FORMAT: where speakers will address issues related to the handling of public procurement; (ii) presentation of cases by procurement users; (iii) group discussion, where cases will be discussed among participants; (iv) group findings/ proposals/ recommendations will be summarized in the plenary sessions at the end of each day.

PARTICIPANTS: PPA staff (13 participants); MoTT-procurement (2 participants); GRD-procurement (2 participants); Railway - procurement (2 participants); Port Authority - procurement (2 participants); MTA&T - procurement (4 participants); MoLG - procurement (2 participants); Tirana Municipality - procurement (2 participants); Durres Municipality - procurement (2 participants); private contractors – (3 participants); WB/Emergency project (2 participants); WB – (1 participant); RIP – (6 participants).

The PPA staff members will be part of the facilitator's team. They will provide answers and clarifications, and record participants' opinions/ ideas/ suggestions. This level of involvement will help future improvements of the procurement process. In addition, the RIP/Albania staff will facilitate group discussions and plenary sessions.

Total number 43; out of which, 13 from PPA; 24 procurement users; and 6 RIP.

VENUE: Hotel MONDIAL.

Period: July 2-3, 2002.

FIRST DAY

July 2, 2002

09:00 – 09:30 Opening Remarks – Mr. Behar Zeneli, the Director of the Public Procurement Agency and Mr. Delafuente, Country Manager of RIP Program in Albania.

09:30 - 09:45 Workshop Agenda. Workshop Rules. The concept of the parking lot. – Valbona Ylli

09:45 – 10:00 Participants introduction and their expectations.

10:00 – 10:30 Presentation by Ms. Kriqi – Chief of Procurement and Control Sector of PPA: Albanian Procurement Law and its changes. Decision of the Council of Ministers on the establishment of an inter-ministerial group on Law Improvement.

10:30 – 10:45 Coffee Break.

10:45 – 11:15 Presentation by Ms. Kathrine Kelm -Consultant RIP/Albania. Preparation of Legal and Sublegal Documents.

11:15 – 11:45 Presentation by Ms. Lizeta Zhupa – Chief of the Statistic Sector of PPA: PPA and its clients; how do they communicate. Information flow.

11:45 – 12:15 Presentation by Mr. McKittrick – RIP Consultant findings.

12:15 – 12:45 Presentation of cases by participants.

12:45 – 14:00 Lunch

14:00 – 14:15 Group division. How the working groups will proceed. (Rotation).

14:15 – 15:45 Group discussion on typical cases and issues:

15:45 – 16:00 Group discussion summary.

SECOND DAY

July 3, 2002

- 09:00 – 09:15** Review first day workshop events.
- 09:15 - 09:45** Presentation of the first day group findings in the plenary session.
- 09:45 – 10:00** Presentation of other typical cases.
- 10:00 – 11:30** Group discussion on typical cases and issues.
- 11:30 – 12:00** Coffee Break. Facilitators will summarize group findings per each case.
- 12:00 – 12:30** Presentation of group findings in a plenary session.
- 12:30 – 13:30** Lunch
- 13:30 – 14:30** Q&A. Parking lot. Were the expectations met? How to improve such activities in the future.
- 14:30 – 15:00** Participants future training/workshop needs.
- 15:00 – 15:30** Follow up activities. Closing remarks by the PPA Director Mr. Behar Zeneli.

Appendix 2.1: List of Participants for 2 July Workshop

WORKSHOP

TITLE: Public Procurement
DATE: July 2, 2002 (First Day)
VENUE: Hotel "MONDIAL", Tirana - Albania
PARTICIPANT'S NUMBER: _____

N.	NAME, FAMILY NAME	INSTITUTION	TEL/FAX/E-MAIL
1.	Struga Gezim	"TRISS.. Ndërtimi Tirane"	003554230093
2.	Viktor Jassimati	"PORT-PROJEKT" Tirane	003554240612
3.	LUAN SHABANI	ALB-NOR CONSULTING, TIRANE	003554266966
4.	Amela Boshnjaku	Min e Popullit Tëri të Tëri	0035542252-36
5.	BESHIR KRISTINA	DASHNIA JURRES	06921141139
6.	Bekurocha Doleku	Min. Përgj. Ekonomikë dhe Tregëtisë	0682451754
7.	Beshira Dato	Min. Përgj. Ekonomikë dhe Tregëtisë	0692200336
8.	Fatbardha Kosaraj	Min. Tregëtisë dhe Telekomunikimit	2230-77
9.	Juxhije Mane	Agjencia e Prokurimit Publik	0682149405
10.	Maribel Brodhanaj	Ushqimorë dhe Peshërimi	041256-840
11.	Alma Dima	Agjencia e Prokurimit Publik	0682138180
12.	Egla ntina Mankhaj	D. P. A. C.	2512 20; dpac@pa.net
13.	Tais Deliallisi	D. P. A. C.	251220 "
14.	Arreke Cumanaj	M. P. V. dhe Securitetit	0682284147
15.	Mirjana Haznedari	M. P. V. D	0692176397
16.	Ilir Sineni	A. P. Durrës	0692145437
17.	Fadil "jushaj"	A. Portual Durrës	052 2376
18.	Danvlet Jashaj	R. N. T. R. RINRS	0682205125
19.	Lixeta Zhupo	Agjencia e Prok. Publik	230434, 232652
20.	Alma Himo	Agjencia e Prokurimit Publik	230434, 232652
21.	Greta Jajria	Agjencia e Prok. Publik	230434, 232652
22.	MERITA ZEDAJ	AGJENCIA PROKURIMIT PUBLIK	230434.
23.	Alma Dado	Agjencia Prokurimit Publik	232652
24.	Kelmend Dulli	Agjencia Prokurimit Publik	232652
25.	Antoni Jashaj	VJERSI SSK	0682050788
26.	Bekir Zepka	Agjencia e Prokurimit Publik	0682284174

27.	Asjari Alru	A.P.P	0682243765
28.	Loreta Kuzi	APP	232652
29.	Viola Blumbi	M. R. T, D. P. U. K.	0682226174
30.	Arben Shkumbi	M. Transport & Telekom	0682151959
31.	Ajron Tjli	MIM. TRANSP. TELEKOM.	0682370111
32.	MATLINDA SHEHU	BASHKIA DURRES	0682194360.
33.	Gladiok Dillka	APP	230434
34.	Ernira (Stina) ^{LETA}	Mim. Rendit Publik	0682153700
35.	Aida Hajmaj	M. R. P	0692114041
36.	Evis Shehu	A. P. P.	230434
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APPENDIX 2.1: LIST OF PARTICIPANTS FOR 3 JULY

WORKSHOP

TITLE: Public Procurement

DATE: July 3, 2002 (Second Day)

VENUE: Hotel "MONDIAL", Tirana - Albania

PARTICIPANT'S NUMBER: _____

N.	NAME, FAMILY NAME	INSTITUTION	TEL/FAX/E-MAIL
1.	Viktor Kasimati	PORT-PROJEKT	355 4 24 06 12
2.	Leta Sumbani	AR - NONCONSULING	355 4 266 966
3.	Bekume Dolleri	Mej. Përg. Hec. Durrës	068 24 511 54
4.	Ashura Doto	Drej. Përg. Hec. Durrës	068 22 003 36
5.	Fotbollus Koronj	Sh. Inj. Telekom	2230 77
6.	Arben Jakimbi	Min. Transp. & Telekom	068 215 1959
7.	Agon Tyli	MIN. TRANSP. TELEKOM.	068 23 70 111
8.	MARINDA SHEHU	BASHKIA DURRES	068 2194 360
9.	BESNIK KERTUSHI	BASHKIA DURRES	069 21 41 139
10.	Tos Deliallisi	D. P. A. C.	251 220
11.	Eglantina Manxhari	D. P. A. C.	- " -
12.	Purvelit Altagi	ANITA - RINAS	068 220 5125
13.	SEMINA LOCA	MINISTRIA EKONOMISE	068 214 63 90
14.	Aniana Cela	MINISTRIA EKONOMISE	068 22 032 29
15.	Rudina Velcani	Amta sh. a	067 22 70 830
16.	Gladiok Dulla	APP	2304 34
17.	Ermira Bera	Min. Rendit Publik	068 215 3700
18.	Aida Hajmaj	Min. Rendit Publik	069 21 140 41
19.	Jhoni Mane	Agjencia Prokurimit Publik	068 21 49 405
20.	Alma Dimo	Agjencia e Prokurimit Publik	068 21 35 190
21.	Alma Mirno	Agjencia e Prok. Publik	2304 34
22.	Greta Gaoia	Agjencia e Prok. Publik	2304 34
23.	MERITA ZEKU	Agjencia Prok. Publik	23.04.34
24.	Alma Deda	Agjencia Prok. Publik	2326 52
25.	Kelmend Dalli	Agjencia e Prok. Publik	2326 52
26.	Arthim D.	Agjencia e Prok. Publik	068 21 47 788

27.	Beban Zenseli	Ajencija - Prokur. Rad	[Signature]
28.	Doseta Tuzij	P.P.P.	[Signature]
29.	Evis Slicku	A.P.P.	238434
30.	Migona Hamedari	M.P. Voklo	240581
31.	Amila Bajramovic	M. R. T. dko Tuzij	2290-36
32.	Ihr Smeri	A.P. Duro	069244547
33.	Demade Inediamaj	URBAN RESEARCH INSTITUTE	09/256 840
34.	Franklin Rechi	A. P. D.	06821.43.587.
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United States Agency for International Development

BALKANS REGIONAL INFRASTRUCTURE PROGRAM FOR WATER AND TRANSPORT

Workshop on Public Procurement

Hotel Mondial
July 2 – 3, 2002

Sergio Delafuente

Booz | Allen | Hamilton
In association with Louis Berger Intl., Urban Institute,
Institute for Public Private Partnerships, Transportation and Economic Research Associates

Workshop on Public Procurement

- Booz-Allen-Hamilton Task Orders in Balkans
- What is RIP?
- RIP Program in Albania
- Task Order – Activity A-17

Workshop on Public Procurement

- Assistance Requested By G.o.A.
- Strengthen PPA

8

Booz | Allen | Hamilton • Louis Berger Intl • Urban Institute • Institute for Public Private Partnerships • Transportation and Economic Research Associates

Workshop on Public Procurement

- **BAH IMPLEMENTATION PLAN**
 - Resources
 - Schedule

4

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Workshop on Public Procurement

● LOCAL STAFF and EXPERTS

- Legal
- Training
- International
- IT
- Procurement

5

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United States Agency for International Development

BALKANS REGIONAL INFRASTRUCTURE PROGRAM FOR WATER AND TRANSPORT

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Hotel Mondial
2 –3 July 2002

Harold McKETRICK

Booz | Allen | Hamilton

In association with Louis Berger Intl., Urban Institute,
Institute for Public Private Partnerships, Transportation and Economic Research Associates

Workshop on Public Procurement

GENERAL TOR

- Part of BAH Contract with USAID
- RIP
- Strengthen Procurement Activities (PPA)
 - Requested by GoA (Through PPA)
- Knowledge transfer to line Ministries

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Workshop on Public Procurement

SPECIFIC TOR

- What laws, regulations are in place?
- Review current regulations and propose new?
- Assist in preparations of initial procurement and contracting guidelines.
- How does PPA work?
- What are the needs?
- What are information requirements?

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Workshop on Public Procurement

SPECIFIC TOR

- HOW ALL CAN BEST CARRY OUT PROCUREMENT REQUIREMENTS?
- Future workshops
- Future training
- IT Component

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Workshop on Public Procurement

METHODOLOGY

- Retrieve laws regulations and rules
- Meet PPA directorate and staff
- Meet with users and others

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Workshop on Public Procurement

FINDINGS

- PPA

- AGENCY STATUS
- WORK LOAD
- STAFFING
- RESOURCES
- WHAT IT IS SUPPOSED TO DO?

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Workshop on Public Procurement

FINDINGS

WHAT IT IS SUPPOSED TO DO?

1. Submits procurement regulation proposals to the Council of Ministers
2. Promotes and supports procurement training
3. Issues Public Procurement Bulletin
4. Prepares Standard Bidding Documents
5. Issues instructions
6. Annual Report to the Council of Ministers

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Workshop on Public Procurement

FINDINGS

WHAT IT IS SUPPOSED TO DO?

7. Inspects records
8. Reviews complaints
9. International Cooperation
10. Plans and coordinates foreign technical assistance
11. Creates Data System for Public Procurement Statistics
12. Encourages and supports use of International Technical Standards

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Workshop on Public Procurement

FINDINGS

● OTHERS

- RANGE OF OPINION AND PRE-CONCEPTIONS OF PPA
- PEOPLE
- BASIS OF PPA DECISIONS

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Workshop on Public Procurement

RECOMMENDATIONS

PPA

1. MUST BE STRONGER AND HAVE MORE AUTONOMY

- MOVE FROM UNDER COUNCIL OF MINISTERS
- POSSIBLY UNDER AUDIT CONTROL
- POSSIBLY INDEPENDENT

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RECOMMENDATIONS

PPA

2. ALL STAFF EXCEPT DIRECTOR CIVIL SERVICE

- DIRECTOR SEVEN YEAR TERM

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Workshop on Public Procurement

RECOMMENDATIONS

PPA

3. INCREASE BUDGET AND RESOURCES

- ADD PEOPLE – TRAINERS; MORE LATER
- ADD COMPUTERS AND OFFICE SPACE
- ADD TRAINING CENTER IN OFFICES
- ADD TRAINING AIDS SUCH AS COMPUTERS AND PROJECTORS
- ADD VEHICLES
- ADD MORE EXPERIENCED STAFF
- OTHER

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Workshop on Public Procurement RECOMMENDATIONS

IT

4. IT APPLICATIONS:

- FIRST STEP IN PROGRESS - BULLETIN
- NEXT STEP SHOULD BE DOCUMENT CONTROL FOR IN HOUSE CASES

Booz | Allen | Hamilton

Workshop on Public Procurement RECOMMENDATIONS

5. WHY WORKSHOP?

- PEOPLE TO MEET AND KNOW PEOPLE
- DIALOGUE AND IDEA EXCHANGE
- UNDERSTAND EACH OTHER'S PROBLEMS
- BRAINSTORM AND GET IDEAS
- USERS WILL LEARN PPA DECISIONS ARE BASED IN LAW
- TOPICS FOR FUTURE WORKSHOPS. WHAT IS NEEDED?

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Workshop on Public Procurement

RECOMMENDATIONS

6. TRAINING - LONG TERM

- TRAIN CURRENT STAFF
- TRAIN MINISTRIES AND SUBORDINATE AGENCIES
- DONOR SPONSORED TRAINING ABROAD. "HANDS ON TRAINING FOR PPA STAFF".

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Workshop on Public Procurement

RECOMMENDATIONS

7. CONTACT WITH MINISTRIES, ETC.

- WORKSHOPS
- FEEDBACK ON CASES AND ISSUES
- CONSIDERATIONS OF SPECIAL PROBLEMS
- MAINTAIN DIALOGUE – INPUT TO MAKE LAW AMENDMENTS

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LAW

NO 7971 date 26.07.1995

ON PUBLIC PROCUREMENT

THE PEOPLE' ASSEMBLE OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I. GENERAL PROVISIONS

Article 1. Purpose of this Law

The purpose of this Law is to promote economy and efficiency in the use of public funds by procuring entities while ensuring that public procurement procedure are fair, transparent and non-discriminatory.

Article 2. Definitions

In this Law :

“ procurement” means the purchasing, hiring or obtaining by any other contractual means of goods, construction and services;

“procuring entity” means any organ of the State or regional and local authorities as well as any other juridical person to whom public funds have been allocated for use in public procurement;

“public procurement” means procurement by procuring entities;

“goods” means raw materials, products, machineries and equipments, objects in solid, liquid or gaseous form and electricity, as well as transport, installation, maintenance or similar obligations related to the supply of the goods if their value does not exceed that of the goods themselves;

“construction” means all work associated with the construction, reconstruction, demolition, repair or renovation of a building or structure, such as site preparation, excavation, installation of equipment and materials, decoration, as well as services incidental to construction, if the value of those services does not exceed that of the construction itself;

“services” means any object of procurement other than construction and goods;

“tendering” means a procurement procedure under which tenders are invited, received, examined and evaluated for the purpose of awarding a contract;

“open tendering” means a procurement procedure whereby all interested candidates may submit tenders;

“restricted tendering” means a procurement procedure whereby only those candidates which are invited by the procuring entity may submit tenders;

“two-stage tendering” means a procurement procedure whereby the procuring entity invites tenders in two stages, in the first stage tenders with full information without prices and in the second stage tenders with prices;

“request for proposals” means a procurement procedure whereby the procuring entity invites proposals from selected candidates;

“direct procurement” means a procurement procedure whereby the procuring entity contacts and seeks a proposal from one candidate;

“request for quotations” means a procurement procedure whereby the procuring entity invites quotations from candidates selected by it;

“candidate” means a physical or juridical person invited to take part in public procurement or seeking to be so invited;

“procurement regulations” are the regulations issued by the competent authority under this Law;

“supplier” means a physical or juridical person under contract with a procuring entity to supply goods, construction or services;

“tender documents” means the documents provided by the procuring entity to tenderers as a basis for preparation of their tenders;

“tenderer” means a physical or juridical person submitting a tender;

“public funds” means every monetary value originated from the state budget, from revenues of state enterprises and companies with the Government as a majority shareholder.

Article 3. Scope of application

This Law applies to public procurement, except the cases where the Council of Ministers, for the reason of national security or national defence, may define an other procedure for public procurement of goods, constructions or services.

Article 4. International obligations

To extent that this Law conflicts with an obligation of the State under or arising out of an agreement with one or more other states or with an international organisation, the provisions of that agreement shall prevail; but in all other respects, public procurement shall be governed by this Law.

Article 5. Procurement regulations

1. The Council of Ministers is authorised to promulgate procurement regulations to fulfil the objectives and to carry out the provisions of this Law.
2. If more than one procuring entity needs the same kind of goods, construction or services, the Council of Ministers may assign to one of those entities the task of procuring such items on behalf of the other entities.

Article 6. Public accessibility of legal texts.

This Law, the procurement regulations and all instructions of the Agency shall be promptly made accessible to the public and systematically maintained.

CHAPTER II. PUBLIC PROCUREMENT ORGANIZATION

Article 7. Responsibility of the procuring entity

1. The procuring entity is responsible for procurement with public funds at its disposal subject to the provisions of this Law and to any such further condition as may be laid known in the procurement regulations and the instructions of the Agency.
2. With respect to contracts above thresholds stated in the procurement regulations, the procuring entity shall submit to the higher central or local authority or to the Council of Ministers for prior review and approval, before a contract is awarded or concluded, a summary report containing:
 - a) justification for the choice of procurement procedure, if other than open tendering,
 - b) the evaluation of tenders of proposals received, and
 - c) the proposed award or conclusion of contract.
3. Procuring entities must make records and documents regarding their public procurement available for inspection by the Agency and must submit reports regarding their procurement activities in such detail and at such intervals as the Agency may require.

Article 8. The public Procurement Agency

1. The Public Procurement Agency is reporting to the Council of Ministers and is the central organ for co-ordination and perfection of the public procurement process.
2. In the performance of its tasks, the Agency;
 - a) submits proposals for procurement regulations to the Council of Ministers;
 - b) promotes and supports training of central and local government officials engaged in public procurement;

c) edits and issues a Public Procurement Bulletin to be used for invitations to tender and other announcements relevant to public procurement;

c) prepares standard documents to be used in connection with public procurement;

d) gives instructions, and, or request, advice and assistance to procuring entities in undertaking procurement;

dh) presents an annual report to the Council of Ministers regarding the overall functioning of the public procurement system;

e) inspects the records of procuring entities to the extent it deems appropriate in order to check on the proper application of this Law by them;

e) performs administrative review of complaints as foreseen in Chapter VIII;

f) cooperates with international institutions and with other foreign entities on matters associated with the public procurement system; and

g) plans and coordinates foreign technical assistance to Albania in the field of public procurement.

3. The Director of the Agency is appointed and dismissed by the Prime Minister.

4. The Prime Ministers also appoints an inter-disciplinary consultative board, composed of representatives from major procuring entities at the central and local government levels, to give advise and comments on the overall functioning of the public procurement system in Albania and on proposals to be submitted by the Agency for consideration by the Council of Ministers.

CHAPTER III. COMMON PROCUREMENT RULES

Article 9. Non-discrimination on the basis of nationality

Physical or juridical persons shall not be excluded from participation in public procurement on the basis of nationality.

Article 10. Records of procurement

(1) Procuring entities shall maintain records of public procurement in sufficient detail to allow control and verification that the provisions of this Law have been respected. With respect to each transaction the record shall contain, as a minimum, justification of the procurement procedure chosen, if other than open tendering, information concerning the goods, construction or services procured, the names of candidates, the name of the supplier to whom the contract was awarded, and the contract price.

(2) The minimum information to be recorded according to paragraph (1) shall, on request, be made available to interested persons after a contract has been awarded. Other information shall remain confidential.

(3) The procuring entity shall preserve and keep the record and documents relating to any procurement available for inspection by the competent authorities during a period of time stated in the procurement regulations.

Article 11. Form of communications

Communications between candidates and procuring entities shall be only in writing. If the communication is made in any other form, it shall referred only to the written documents and the content of that communication shall be confirmed in writing, immediately after that communication.

Article 12 Qualification of candidates

(1) In order to participate in public procurement, candidates must qualify by meeting such of the following criteria as the procuring entity considers appropriate under the circumstances:

(a) that they possess the necessary professional, technical and organisative capacity, personel, financial resources, maschineries and other physical facilities, reputation and reliability to perform the contract;

(b) that they shall have before performed similar contracts in compliance with they stated in procurement regulations;

(c) that they have the legal capacity to enter into the contract;

(c) that they are not insolvent, in receivership, bankrupt or being wound up, their business activities have not been suspended, and they are not subject of legal proceedings for any of the foregoing;

(d) that they have fulfilled their obligations to pay taxes and social security contributions. Documentary evidence to be provided by a foreign candidate to demonstrate that it meets the criterion in this paragraph may consist of a written declaration to that effect by the candidate;

(2) The procuring entity may require candidates to provide such appropriate documentary evidence or other information as it may deem useful to satisfy itself that the candidates are qualified in accordance with the criteria referred to in paragraph (1).

(3) Any requirement established pursuant to this Article shall be set forth in the prequalification documents, if any, and in the tender documents or other documents for solicitation of proposals, and shall apply equally to all candidates.

(4) The procuring entity shall evaluate the qualifications of candidates in accordance with the criteria and procedures set forth in the documents referred to in paragraph (3).

(5) The procuring entity shall disqualify a candidate who submits a document containing false information for purposes of qualification. In such case the procuring entity can propose to the Public Procurement Agency that the candidate be expelled from all public procurement for a period up to one year. If the Public Procurement Agency shall approve this proposal, this shall be published in the Public Procurement Bulletin.

(6) The procuring entity has the right to disqualify a candidate, if it, at any time up to the signing of the contract will find out that the information submitted related to the qualification or other data presented by and for the candidate are inaccurate or incomplete.

Article 13. Prequalification proceedings

(1) The procuring entity may engage in prequalification proceedings with a view towards identifying, prior to the submission of tenders, that candidates are qualified. The use of prequalification proceedings is indispensable as a preliminary to open tendering or two-stage tendering in the case of large or complex contracts for goods and construction.

(2) If the procuring entity engages in prequalification proceedings, it shall prepare a set of prequalification documents containing as minimum the following information:

(a) instructions for preparing and submitting prequalification applications;

(b) the nature and quantity of goods, construction or services to be procured;

(c) the desired time for delivery of the goods or completion of the construction or services;

(c) the criteria and procedures to be used for evaluating the qualifications of the candidates, following the provisions of Article 12;

(d) a summary of the principal required terms and conditions of the contract to be entered into as a result of the procurement proceedings;

(dh) any documentary evidence or other information that must be submitted by candidates to demonstrate their qualifications;

(e) the manner and place for the submission of applications to prequalify and the deadline for submission; and

(e) any other requirements that may be established by the procuring entity in conformity with this Law and the procurement regulations.

(3) An invitation to prequalify shall be advertised in the manner prescribed for invitations in the open tendering procedure by being in compliance with the time limits defined in procurement rules for the pre-qualification procedure and shall contain at least information about;

(a) the name and address of the procuring entity;

(b) a brief description of the purpose of the invitation along with a summary of the nature and quantity of goods, construction and services to which the prequalification will apply.

(c) the means of obtaining prequalification documents and the place and deadline for submission of applications to prequalify.

(4) The procuring entity shall make a decision with respect to the qualifications of each candidate submitting an application to prequalify. In reaching that decision, the procuring entity shall apply only the criteria set forth in the prequalification documents.

Article 14 . Technical specifications

(1) Technical specifications laying down the characteristics of the goods, construction or services to be procured shall be prepared for the purpose of giving a correct and complete description of the object of procurement and for the purpose of creating conditions of fair and open competition between all candidates.

(2) The technical specifications shall clearly describe the procuring entity's requirements with respect to quality, performance, safety and dimensions, symbol, terminology, packaging, marking and labelling or the processes and methods for their production and requirements relating to conformity assessment procedures.

(3) Technical specifications prescribed by procuring entities shall, where appropriate:

(a) be in terms of performance rather than design or descriptive characteristics; and

(b) be based on international standards, where such exists, or otherwise recognised national standards or building codes.

(4) There shall be no requirement or reference in the technical specifications to a particular trademark or name, patent, design or type, specific origin, producer or service provider, unless there is no sufficiently precise or intelligible way of describing the procurement requirements and provided that words such as “or equivalent” are included in the specifications.

Article 15. Rejection of all tenders, proposals or quotations

1. If so specified in the tender documents or in the request for proposal or quotations, and provided rejection can be justified on sound economic grounds, the procuring entity may reject all tenders, proposals or quotations at any time prior to their acceptance. The procuring entity shall upon request communicate to any candidate the grounds for its rejection but is not required to justify those grounds.

2. The procuring entity shall incur no liability towards candidates solely by virtue of its invoking paragraph (1) of this Article.

3. Notice of the rejection shall be given promptly to all participating candidates.

4. If the decision to reject all tenders, proposals and quotations is taken before the closing date, all tenders proposals and quotations received shall be returned unopened to the tenderers submitting them.

Article 16. Inducements from candidates

The procuring entity shall reject a tender, proposal or quotation if the candidate that submitted it gives or promises to give, directly or indirectly, to any current or former officer to employee of the procuring entity or other governmental authority a gratuity in any form, an employment or any other thing or service of value, as an inducement with respect to an act or decision of, or procedure followed by, the procuring entity in connection with the procurement proceedings. Such rejection and the reasons therefore shall be recorded in the record of the procurement proceedings and promptly communicated officially to the candidate concerned.

CHAPTER IV. CHOICE OF PROCUREMENT PROCEDURE

Article 17. Procurement Procedures

1. Except as otherwise provided in this Chapter, the procuring entity shall use open tendering as the preferred procedure of procurement.
2. A procuring entity may use a procedure other than open tendering only pursuant to the following Articles 19,20,21,22 and 23.
3. Exceptionally, in special cases or force major, the Council of Ministers may permit the use of a procedure other than open tendering in situations not foreseen in Articles 19,20,21,22 and 23.
4. A procuring entity shall plan its procurement in a rational manner, and no procurement requirements for a given quantity of goods, construction or services shall be split up with the intention of avoiding a procurement procedure stated in this Law or in the procurement regulations.

Article 18. Conditions for use of restricted tendering

The procuring entity may engage in procurement by means of restricted tendering in accordance with Article 36, when:

- a) the goods, construction or services are available only from a limited number of suppliers ;
- b) the estimated value of the contract does not exceed a threshold set out in the procurement regulations.

Article 19. Conditions for use of direct procurement.

1. The procuring entity may use direct procurement in accordance with Article 37 if this method is not resorted to with a view to avoiding possible competition or in a manner which would constitute a means of discrimination among candidates:
 - a) when in the absence of competition for technical reasons the goods, construction or services can be supplied or provided only by one candidate;
 - b) within limits defined in the procurement regulations, for additional deliveries by the original supplier which are intended either as parts replacement for existing supplies, services, or installations, or as the extension of existing supplies, services, or installations where a change of supplier would compel the procuring entity to procure equipment or services not meeting requirements of interchangeability with already existing equipment or services;

c) within limits defined in the procurement regulations, when additional construction services, which were not included in the initial contract have, through enforceable circumstances, become necessary since the separation of the additional construction services from the initial contract would be difficult for technical or economic reasons;

c) within limits defined in the procurement regulations, for new construction services consisting of the repetition of similar construction services which conform to a basic project for which an initial contract was awarded on the basis of open or restricted tendering;

d) for continuation of consulting services, where the original contract has been satisfactory performed and the continuation is likely to lead to gain in economy and efficiency;

dh) for purchase of perishable commodities such as fresh fruits, vegetables or other similar items which are purchased on market terms;

e) for purchases of goods made under exceptionally advantageous conditions which only arise in the very short term. This provision is intended to cover unusual disposals by firms which are not normally suppliers. It is not intended to cover routine purchases from regular suppliers.

(e) for the continuation of the design services that are related with services previously performed, which would violate the author's right if they would be given to another subject.

2. The procuring entity may also use direct procurement for small value purchases of readily available goods when the contract price does not exceed an amount stated in the procurement regulations.

Article 20 Conditions for use of two-stage tendering

The procuring entity may engage in procurement by means of two-stage tendering in accordance with the Article 38, in the case of large or complex contracts for goods or constructions, for which open or restricted tendering is not suitable because of the difficulty in defining precisely the goods or constructions, by requesting:

(a) in a first stage, tenders without prices with full technical information as to various possible means of meeting its objectives, after which,

(b) in a second stage, priced tenders on the basis of technical specifications and other data chosen on the basis of the first stage.

Article 21 Conditions for use of request for proposals.

The procuring entity may engage in procurement by means of request for proposals in accordance with Article 39 when it seek to obtain consulting services or other services for which tendering is not suitable because of the difficulty in defining precisely the services.

Article 22 Conditions for use of request for quotations.

The procuring entity may engage in procurement by means of request for quotations in accordance with Article 40 for the purchase of readily available goods or for procurement of construction or services for which there is an established market, so long as the estimated value of the contract does not exceed an amount stated in the procurement regulations.

CHAPTER V. OPEN TENDERING

Article 23 Basic provision regarding open tendering

Open tendering shall be used when the estimated contract value exceeds an amount stated in the procurement regulations. Procuring entities may engage in open tendering whenever goods, construction or services to be procured are obtainable from domestic sources and in sufficient competition within the country, always subject to the rule of no-discrimination in Article 9. The following basic provision shall apply to open tendering procedures.

Article 24 Invitation to tender.

The invitation to tender shall contain, as a minimum,

- (a) the name and address of the procuring entity,
- (b) a brief description of the goods, construction or services to be obtained, including desired time limit for delivery or completion,
- (c) the means and conditions for obtaining the tender documents and the place from which they may be obtained,
- (c) the place and deadline for the submission of tenders, and,
- (d) the place and time for opening of tenders, along with an announcement that tenderers' representatives are allowed to attend the opening of tenders.

Article 25 Advertisements

- (1) In addition to any publication in the Public Procurement Bulletin, invitations to tender shall be advertised in at least two national newspapers of general circulation.
- (2) The time allowed for preparation of tenders shall not be less than a minimum number of days stated in the procurement regulations.

Article 26. Tender documents.

The tender documents shall contain sufficient information to enable competition among the tenderers to take place on the basis of complete, neutral and objective terms. In particular, tender documents must include:

- (a) instructions for the preparation and submission of tenders;
- (b) information on the final date for receipt of tenders, the address to which tenders must be sent, the date, hour and place of such opening, as well as an announcement that tenderers' representatives are allowed to attend the opening;
- (c) forms of tender and, where applicable, forms of tender security to be provided;
- (ç) the number of copies to be submitted with the original tender;
- (d) conditions of contract, general and special; for construction contracts may foreseen even the supervision and taking over of them;
- (dh) specification of requirements, including time limit for delivery or completion, as appropriate;
- (e) evidence to be provided by the tenderer to demonstrate its qualifications as well as its standing with regards to fiscal and social security obligations;
- (ë) the period during which the tender must remain valid;
- (f) the criteria for evaluation of tenders and award of the contract; and
- (g) a reservation to the effect that the procuring entity may reject all tenders at any time prior to the acceptance of a tender.

Article 27 Provision of tender documents.

Tender documents shall be made available to candidates in an expeditious manner, at a price not exceeding the cost of reproduction and delivery to candidates, and otherwise in the manner specified in the invitation to tender.

Article 28 Modifications to tender documents.

At any time prior to the deadline for submission of tenders, the procuring entity may, on its own initiative or in response to an inquiry by a candidate having purchased the tender documents, modify the tender documents by issuing an addendum. Any addendum shall be communicated promptly to all candidates having purchased the tender documents. If the procuring entity considers it necessary to amend the tender documents, and if that amendment is made less than one- third of the time allowed for the preparation of tenders remains until the

closing date, the procuring entity shall postpone the closing date by a number of days, depending on the procurement object.

Article 29 Tender security

(1) The procuring entity shall include in the tender documents a condition that tenders must be accompanied by security in the form of a deposit or bank guarantee. The amount of such security shall be sufficient to discourage irresponsible tenders and shall remain within limits stated in the procurement regulations.

(2) Tender security shall be forfeited if a tenderer withdraws his tender within the validity period therefor or, in the case of a successful tenderer, if the tenderer repudiates the contract or fails to furnish performance security, if so required.

Article 30. Submission and receipt of tenders.

(1) Tenders shall be submitted in writing, signed and in a sealed envelope. They should be submitted at the place, time and date specified in the invitation to tender. The tender envelope should contain the documentation for the qualification of the candidates and the technical-economic tender closed in two separate envelopes. In international tender procedures the tenders can be received before the designated opening date, but the invitation to tender should specify the deadline for tender submission. In those cases, the procuring entity, after a request, should give to the tenderer a document specifying the date and time that he has submitted the proposal.

(2) Tenders received after the deadline for submission shall be returned unopened to the tenderer.

Article 31 Opening of tenders.

(1) At the time stipulated in the tender documents for opening of the tenders, which for international tender procedures should follow shortly after the deadline for submission of tenders, the procuring entity shall open all tenders received before the deadline.

(2) Tenderers, or their authorised representatives, shall be allowed to attend the opening of tenders.

(3) The name of the tenderer and the total amount of each qualified tender shall be read out aloud and recorded, a copy of the record shall/and be made available to any tenderer on request.

(4) The envelopes containing the technical-economic tender of a tenderer disqualified for not meeting of qualification criteria, should be sent unopened to the tenderer.

Article 32. Examination and evaluation of tenders.

(1) The procuring entity may ask tenderers for clarification of their tenders in order to assist in the examination and evaluation of tenders. No change in the substance of the tender, including changes in price, shall be sought, offered or permitted.

(2) Notwithstanding paragraph (1), the procuring entity shall correct purely arithmetical errors that are discovered during the examination of tenders. The entity shall give prompt notice of any such correction to the tenderer that submitted the tender.

(3) Subject to paragraph (4), the procuring entity shall regard a tender as responsive only if it conforms to all requirements set forth in the tender documents.

(4) The procuring entity may regard a tender as responsive even if it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and other requirements set forth in tender documents or if it contains errors or oversights that are capable of being corrected without touching on the substance of the tender. Any such deviations shall be quantified, to the extent possible, and appropriately taken account of in the evaluation and comparison of tenders.

(5) The procuring entity shall not accept a tender when a tenderer:

(a) has failed to demonstrate, in the manner foreseen in Article 26 (e), that it is qualified;

(b) does not accept a correction of an arithmetical error made pursuant to paragraph (2) of this Article;

(c) his tender is not responsive.

(c) has offered an inducement under Article 16

(6) The procuring entity shall evaluate and compare the tenders that have been held responsive in order to ascertain the successful tender, as defined in paragraph (7), in accordance with the procedures and criteria set forth in the tender documents. No criterion shall be used that has not been set forth in the tender documents.

(7) The successful tender shall be the tender which, in accordance with the procedures and criterion set forth in the tender documents, meet the requirements of procurement object with:

(a) the lowest tender price; or

(b) if the procuring entity has so stipulated in the tender documents, the lowest evaluated tender ascertained on the basis of factors affecting the economic value of the tender which have been specified in the tender documents, which factors shall, to the extent practicable, be objective and quantifiable, and shall be given a relative weight in the evaluation procedure or be expressed in monetary terms wherever practicable.

(8) The procuring entity shall prepare an evaluation report, containing a summary of the examination and evaluation of tenders.

Article 33 Process to be confidential.

(1) After the opening of tenders, information relating to the examination, clarification, and evaluation of tenders and recommendations for award must not be disclosed to tenderers or other persons not officially concerned with this process until the award of the contract is announced.

(2) Following opening of the tenders, and until the contract is signed, no tenderer shall make any unsolicited communication to the procuring entity or try in any way to influence the entity's examination and evaluation of the tenders.

Article 34 Tenderers not to be requested to modify their tenders.

A tenderer shall not be required, as a condition for award, to undertake responsibilities not stipulated in the tender documents, to change its price or otherwise to modify its tender.

Article 35 Notification of award and signing of contract.

(1) Prior to the expiry of the period of tender validity, the procuring entity shall notify the successful tenderer that its tender has been accepted.

(2) The notification of award shall constitute the formation of a contract between the parties, which must be signed within the time stated in tender documents. The notification shall contain at least total value of contract, request for the furnishing performance security and the sign of contract form.

(3) The existence of a contract shall be confirmed through the signature of a contract document incorporating all agreements between the parties

CHAPTER VI. OTHER PROCUREMENT METHODS

Article 36 Restricted tendering procedure

Restricted tendering procedures are the same as those applied in open tendering, except that:

(a) the invitation to tender is addressed to a limited number of qualified candidates - for the purpose of obtaining not less than three tenderers - which have declared an interest in submitting tenders. The selection should be made in a nondiscriminatory manner, and the number of candidates invited should be, if possible, sufficient to ensure effective competition;

(b) procuring entities maintaining updated lists of qualified suppliers may select candidates to be invited to tender from among those listed. Any selection shall allow for equitable opportunities for suppliers on the list;

(c) the time allowed for preparation of tenders shall not be less than a minimum number of days stated in the procurement regulations; and

(c) the procuring entity may decide, depending on the circumstances, if tender security will have to be submitted or not.

Article 37 Direct procurement procedure.

(1) When the procuring entity engages in direct procurement according to Article 19(1), it shall prepare a description of its needs and any special requirements as to quality, quantity, terms and time of delivery, and shall be free to negotiate with the sole candidate. Any agreement reached by procurement according to Article 19 (1) shall be confirmed by a contract signed by both parties.

(2) Direct procurement according to Article 19 (2) requires no contract or other documents.

Article 38 Two-stage tendering procedure

(1) When the procuring entity engage in two-stage tendering, it shall select candidates on the basis of prequalification proceedings according to Article 13.

(2) In the first stage, the procuring entity shall invite prequalified candidates to submit tenders without price but including information about the technical performance, quality or other characteristics of the goods or construction that they consider best suited to meet the procuring entity's objectives. In this stage, the procuring entity may engage in negotiations with any candidate concerning any aspect of its tender.

(3) In the second stage, the procuring entity shall invite final, priced tenders on the basis of final technical specifications from candidates which have presented satisfactory tenders in the first stage.

(4) For award of a contract based on tenders submitted in the second stage, the provisions of Chapter V shall apply.

Article 39 Request for proposals procedure

(1) Request for proposals shall be addressed to not less than three, not more than seven candidates selected by the procuring entity.

(2) A request for proposals shall contain at least the following information:

(a) name and address of the procuring entity;

(b) a description of the services required, normally through terms of reference;

(c) in case of consultancy assignments which may involve potential conflict of interest, a reminder that candidates for such assignment must exclude themselves from procurement of goods and construction which may follow as a result of, or in relation to, the assignment;

(c) the criteria for evaluating the proposals, the relative weight to be given to price and other criteria, and the manner in which they will be applied in the evaluation of proposals;

(d) place and deadline for the submission of proposals.

(3) The procuring entity may negotiate with candidates which respect to the content of their proposals and may seek or permit revision thereof.

(4) Any award by the procuring entity shall be made to the candidate whose proposal is most advantageous, determined in accordance with the criteria and procedures for evaluating proposals set forth in the request for proposals.

Article 40 Request for quotation procedure.

(1) The procuring entity shall request quotations from as many candidates as practicable, but from at least three.

(2) The request shall contain a clear description of the requirements of the procuring entity as to quality, quantity, terms and time of delivery as well as other special requirements.

(3) Any award by the procuring entity shall be placed with the candidate who meets the requirements of the procuring entity stipulated in paragraph(2) and who quotes the lowest price.

(4) The procuring entity shall place a contract with successful candidate.

CHAPTER VII. INTERNATIONAL PROCEDURES

Article 41 Open international tendering

(1) The procuring entity shall use "Open international tendering" whenever in open tendering an effective competition cannot be obtained unless foreign firms are invited to tender.

(2) Open international tendering shall respect the provisions of Chapter V as well as the following provisions:

(a) The invitation to tender and the tender documents shall be in Albanian language and in a language generally used in international trade.

(b) The invitation to tender shall be advertised in a newspaper using the same foreign language as the invitation and being of sufficient circulation to attract foreign competition.

(c) The deadline for submission of tenders, stated in the procurement regulations, shall be sufficient for the invitation to reach candidates and for enabling them to prepare and submit tenders.

(c) Technical specifications shall, to the extent compatible with national requirements, be based on international standards or standards widely used in international trade.

(d) Candidates shall be permitted to express their tenders, as well as any security documents to be present by them, in their respective home currencies, or in a currency widely used in international trade and stated in the tender documents

(dh) General and special conditions of contract shall be of a kind generally used in international trade.

Article 42. Other international procedures

Whenever international competition cannot be obtained unless foreign firms are invited to participate in procedures other than open international tendering, such as restricted or two-stage tendering, the provisions of Article 42 (2) shall apply to the extent practicable in addition to the stipulations of Chapter VI.

CHAPTER VIII. ADMINISTRATIVE REVIEW

Article 43 General

(1) Subject to the provisions of this Chapter, any candidate is free to seek administrative review of an act or omission by a procuring entity which the candidate considers to be in breach of this Law, the procurement regulations or any instructions issued pursuant thereto.

(2) The following shall not be subject to the review provided for in paragraph (1) of this Article:

(a) the choice of a procurement method pursuant to Chapter IV;

(b) a decision by the procuring entity under Article 15 to reject all tenders, proposals or quotations; and

(c) a decision taken by the entity with the consent of the Council of Ministers.

(3) Once the procuring entity has signed a contract with the candidate of successful tender or proposal, a complaint against an act or omission in the process leading up to that stage cannot be entertained through administrative review.

Article 44. Review by the head of the procuring entity

(1) A complaint against an act or omission by the procuring entity shall, in the first instance, be submitted to the head of the procuring entity.

(2) Unless the complaint is resolved by mutual agreement, the head of the procuring entity shall suspend the procurement proceedings and shall, within 15 days after submission of the complaint, issue a written decision, stating the reasons, and, if the complaint is upheld, indicating the corrective measures to be taken.

(3) If the head of the procuring entity does not issue a decision within the time stated in paragraph (2), or if the candidate is not satisfied with the decision of the head of the procuring entity, he presents a complaint to the central or local body and, if he doesn't receive the desired solution of the problem the candidate is entitled to submit a complaint to the Public Procurement Agency.

Article 45 Review by the Agency

(1) Upon receipt of a complaint, the Agency shall promptly give notice of the complaint to the procuring entity. Such action automatically suspends further action by the procuring entity until the matter has been settled by the Agency.

(2) The Agency, unless it dismisses the complaint, may prohibit the procuring entity from acting or deciding unlawfully or from following an unlawful procedure, may order the procuring entity to

proceed in a manner conforming to this Law, and may annul, in whole or in part, an unlawful act or decision by the procuring entity, other than a decision to award or conclude a contract.

(3) The Agency shall, before taking any decision regarding a complaint, notify interested candidates of the complained and shall take into account information and arguments received from such candidates and from the procuring entity.

(4) The Agency shall issue its decision within 30 days of receiving the complaint, stating the reasons for its decision and remedies granted, if any.

(5) The Agency's decision shall be final.

CHAPTER IX. FINAL PROVISIONS

Article 46. Administrative infringements

The higher central or local authority when ascertains the breach of the provisions of this law and procurement regulations, has the right to penalize for administrative infringement the responsive persons of procuring entity with a fine from 50 to 100 thousand leke. Against to the penalize decision may be lodged a complaint, within 5 days after the notification, to the court of district of procuring entity.

Article 47. Repeal of other legislation

All provisions that contradict with this law are repealed.

Article 48. Entry in force

This law shall enter into force on 1 November 1995.

**REPUBLIC OF ALBANIA
COUNCIL OF MINISTERS**

GUIDELINES

NO. 1 DATED 1.01.1996

ON PUBLIC PROCUREMENT

Pursuant to the proposal of the Agency of Public Procurement, the Council of Ministers,

INSTRUCTS

I. THE PROCURING ENTITY AND THE PROCUREMENT ORDER

I. The Procuring Entity is the central or local body, which has available funds for procurement, when it is making the procurement by itself. In case when the procuring entity delegates in writing the procurement to another juridical person, then the latter bears the rights and responsibilities of the procurement entity.

The head of Procuring Entity, after the allocation of funds, issues the procurement order, in which it defines

- a) the object to be procured;
- b) the available funds;
- c) the procurement procedure;
- ç) the commission of tender evaluation;
- d) the group that prepares the tender documents where there is no procuring unit

II. PROCUREMENT PROCEDURES

The procurement procedure to be followed is decided on the basis of law no.7971, dated 26.07.1995 "On Public Procurement", and decision of the Council of Ministers no .12, dated 1.1.1996 " On the Rules of Public of Procurement".

2. In the procurement procedures no highest and lowest values can be defined, for the purpose of the disqualification of the tenderers.

a) Open and international tendering procedures

Open tendering is the type of procedure mainly addressed to the local companies, but which allows the participation of other companies as well, despite their nationality. The open tendering documents will be prepared only in Albanian language, the tenders will be presented only in Albanian language and the announcements will be published in the local press.

Open international tendering is the type of procedure addressed to all companies; the tender documents will be prepared in Albanian and also in another language widely used in the

international trade; the announcements will be published not only in the Bulletin of Public Procurement Agency and local press, but according to article 25 of the law no.7971, dated 26.7.1995, these announcements should be published as well in an international newspaper to promote competition.

Open tendering will be the preferred tender procedure because it makes use of local human resources and has its advantages in relation to the organization of tenders, because:

- the procurement is made in a shorter time because the deadlines are shorter;
- geographical distances facilitate the contacts between the employer and the contractor;
- the announcement is published in the Bulletin of the Public Procurement Agency and in the local press; therefore its cost is lower;
- the native language is used;
- there is time benefits in relation to the exchange of announcements, clarifications, organization of meetings, dispatch and reception of the additional materials (where necessary) etc.;
- the procurement laws and rules are known to the tenderers, therefore misunderstandings are avoided to the maximum, facilitating in this way the communication.

This procedure will always be used when effective competition can be achieved, otherwise international open tendering will be used as provided in article 41, of the law no. 7971, dated 26.7.1995.

b) Prequalification procedures

The prequalification procedures will be used according to Article 13 of the Law No. 7971, date 26.07.1995, in cases of complex procurements when considerable efforts are needed to prepare the tenders and to examine and evaluate them.

This procedure encourages the companies to participate in the prequalification stage, because the documentation they are asked to prepare during this stage does not cost much time and money.

This procedure also enables the procuring entity to invite only those companies that have sufficient capacity and recourses to compete, avoiding participation of unqualified companies.

The announcement for the prequalification stage is made within the time limits established for open and international tendering.

The prequalification documents will request from the prospective tenderers to demonstrate their capacity and recourses to satisfactorily fulfil contracts, taking into consideration their performance in previous similar contracts; the capacity of its personel; the number, type and source of the construction and production machinery and equipment; its financial situation, etc.

After the prequalification procedures have been completed, the tender documents are distributed to the prequalified companies.

The information provided in the documentation for prequalified will be verified before signing the contract. If the provided information results false, inaccurate or incomplete, the tenderer will

be disqualified according to the Article 12. Paragraph 5 and 6 of the Law No. 7971 dated 26.07.1995. In this case the procuring entity awards the contract to second ranking tenderer.

The prequalification procedures may be applied even for a group of similar procurements, when a certain value is defined, under which prequalification is not necessary.

In this case prequalification may be valid for a certain period of time, which should be specified in the documents of prequalification stage. Upon expiring of the time limit, prequalification should be repeated.

c) Two-stage tendering

“Two-stage tendering” will be applied when the final design and technology of the goods and works to be procured, present some difficulty in the preparation of the technical specifications and other tender documents.

This may be happen when the preliminary preparation of complete technical specifications would be difficult or non-practical and the procuring entity considers as more reasonable to collect proposals of the participating companies (in case of turn-key contracts or complex contracts).

This procurement procedure is also suitable in the case of procurement of such equipment, which are subject to rapid changes in technology, i.e. computer systems or communication systems.

The first stage of two-stage tendering may be open or restricted based on the Law No. 7971, dated 26.07.1995 and the Decision of the Council of the Ministers No. 12 date 01.01. 1996, respecting time-limits and thresholds specified in this decision. The second stage of “Two-stage tendering” should respect the time limits of “Limited Tendering”.

ç) Request for Proposal

“Request for Proposal” is a type of limited tendering, where the number of tenderers is conditioned by the number of the companies or individuals capable of presenting valid tenders.

If there is an international “Request for Proposals”, the procuring entity should ask for proposals from not less than three countries.

The prequalification stage in “Request for Proposals” may or may not be used.

When the procuring entity uses “Request for Proposals” without the prequalification stage, it should prepare before hand a short list of the companies or individuals with due capacity to present valid proposals.

This procurement procedure may be used in consulting or designing services, preparation of feasibility studies, supervision of works, etc.

The tender documents should contain the terms of reference, the type and quality of solicited proposal, all laws and sub-legal acts if any, regulating such procedure, rules, standards, technical conditions which support the solicited proposal.

d) Request for Quotations

“Request for Quotations” is used when works, services or goods that will be procured have a stable market and the value of the contract is small.

This procurement procedure is a kind of limited tendering that has priority compared to other forms of procurement because the time needed for procurement is shorter and there are less requests for qualification.

When procuring construction works or services only the legal and administrative documentation is requested. In the case of procurement of goods, tendering conditions will be included in a purchase order and the quotations may be received even by fax or telex, under the condition that the legal and administrative documentation of the winning company will be verified before signing the contract.

Local "Request for Quotations" is organized when tenders for works, services or goods may be obtained from more than two sources and with competitive prices. In international "Request for Proposals" the procuring entity will request quotations from not less than three countries.

"Request for Quotations " may or may not have the prequalification stage.

III. TENDER DOCUMENTS

The tender documents consist of (a) the general part, according to the forms attached to these guidelines, including:

- invitation to tender
- instruction to tenderers
- tender form
- general and specific conditions of the contract
- requests for the qualification of the participants
- form of tender security

and (b) the specific part, in accordance to the type of procurement, including:

- 1) Procurement of construction works
 - final designs and technical specifications
 - volumes of works and schedule of works (if necessary)
 - schedule of works completion (if necessary)
 - evaluating criteria
 - 2) Procurement of goods
 - technical specifications
 - schedule of delivery
 - evaluating criteria
 -
- a) The general Part

-Invitation to tender contains the name and address of the procuring entity, the available funds, the object and the procurement procedure, the price and place of purchasing tender documents, the place, date and time of opening of tenders.

-Instructions to bidders contains all necessary information for preparation of bids.

Tenderers will use the standard tender documents and the general conditions of the contract enclosed in the instructions, without making any change. Changes may be made only in the specific conditions of the contract.

In international tendering the tender documents will be prepared in Albanian and in English (if not otherwise envisaged in the respective agreements), specifying which language will prevail. In local tendering the Albanian language will be the language of the tender.

All the participants in tendering will be given equal opportunities to visit the sites of big and complex works, and a preliminary meeting may be organized where prospective tenderers may request explanations for questions that have emerged during the preparation of their tender. The clarifications will be requested in a written form and after being prepared by the procuring entity will be distributed to all the possible tenderers without exception.

Every correction or amendment in the tender documents will be sent to each of the candidates within a reasonable time before the receipt of the tenders.

The tender documents should define the currency or the currencies in which the tenderers will present their tenders; the procedures for price adjustments of different currencies (not more than three) in a single currency; and the currency in which payments of the contract will be made. The exchange rate of different currencies will be the rate of 28 days prior of opening tenders. This avoids mistakes in currency exchange, provides fairness and transparency during the evaluation process and enables the participants from countries with weak currencies to use a stronger currency.

Tender documents should also make clear that the tenderers should include in their tenders all fiscal taxes and duties to be paid according to the laws in effect 28 days before opening of the tenders.

The tender form should contain confirmation of the tenderer for the prices offered by him for the completion of the contract and the declaration that his tender is in accordance to the contract conditions and technical specifications given in the tender documents.

- General conditions of the contract should denominate the range of works to be performed, goods to be delivered, the rights and obligations of the procuring entity and of the contractor, as well as the functions and competencies of the contractor and the director of works in supervision and contract administration. Besides the general conditions of the contract, there will also be provided the special conditions of contract. In the specific conditions of contract it is also stated the amount of performance security, which will protect the procuring entity in case of contract infringement by the contractor. Part of this guarantee will be extended beyond the completion date to pay for the defects or maintenance until the procuring entity takes over the works. The

contract may envisage the retention of a certain percentage in every periodic payment until the procuring entity takes over the object.

Requests for qualification should contain the legal and administrative documentation of the candidate that have been considered as necessary by the procuring entity, in conformity with article 12 of law no 7971 dated 26.7.1995. For construction works and designing activity, the requests for qualification will include except the legal and administrative documentation, even other data related to the staff, technical capacity and experience of the company.

Form of tender security serves to protect the procuring entity from irresponsible tenders, but this amount should not be as high as to discourage the participation in tendering process. The form of tender security will be a bank deposit or guarantee in a bank related to Albanian banks. Tender security of the successful tenderer should be valid for a period of 30 days after the termination of tender validity, so that the procuring entity will have enough time to forfeit tender security if it becomes necessary. Tender security of the unsuccessful tenderers will be returned immediately after signing the contract with the winner.

The procuring entity will define the percentage of tender security depending on the estimated value of the contract as given in the Decision of the Council of Ministers no 12, dated 1.1.1996, aiming at the lowest limit for contracts of big amounts and the upper limit for the small value contracts.

b) The specific part

1. Procurement of construction

New construction works should have the detailed final design so that work items and volumes are clearly stated in the tender documents.

Construction works may be procured with fixed prices when the volumes of work given in the final design are subject to changes during construction work. In this case the successful tenderer is obliged to keep the unit prices unchanged as defined in its tender.

Construction works may be procured also with turn-key contracts, when work volumes given in the tender documents are not precise and the tenderers should make a detailed study of the design, without being obliged to respect the given volumes. In this case the successful tenderer is responsible for handling over the object without claiming any additional amount over the price it has offered in its tender responding also to all fiscal obligations according to the existing laws.

The technical specifications should clearly state the requirements of the procuring entity on the quality of works, materials to be used, or other requirements besides those envisaged in the final design or technical conditions.

In the requests for qualification there should be clearly given the minimal requests related to:
-qualifications and licenses of the staff that will be directly involved in the object; i.e. the key personnel responsible for the implementation of the works.

-the number and type of plant and equipment, i.e. the indispensable technical capacity for carrying out the works.

-the minimal value of similar objects built by the contractor (documented through certificates issued by the investor) in order to convince the Procuring Entity that the contractor is capable of realizing the requested works.

If the contractor fulfils these requests for qualification given in the tender documents, it is considered as qualified and then its tender will be evaluated (and also time, if this is foreseen as evaluation criterion in the tender documents). The requests for qualification serve only for the qualification of the tenderer and are not awarded with points, though they may surpass the limit requested in, the tender documents.

In all the cases when the contracts are based upon unique prices, the work volumes should be complete in all the items and percentages the procuring entity judges as need to be fixed, (reserve fund, the minimal planned profit, the minimal supplementary expenses, the percentage of the value added tax, etc).

The order of completion of different stages of works should be given in the tender documents, if the procuring entity considers as necessary that different stages of works should be completed according to a certain order.

If the time for completion of works is not an evaluating criterion, this shall be clearly stated in the tender documents; in the opposite case time for completion of works shall be part of the evaluating criteria.

In the evaluating criteria there should be given the weight of every criterion; i.e. the maximal points for the tender with the lowest price, or the maximal points for the tender with the shortest time schedule, (when time is an evaluating criterion), and the formula for calculating the points of the successive tenderers: $P_i = V_{min} \times P_{max} / V_i$ where:

- P_i -points of the tender under evaluation
- P_{max} - the maximal points given to the lowest tender
- V_i - value of the tender under evaluation
- V_{min} - the value of the lowest tender

When procuring reconstruction works and there is no final design, the procuring entity may use two-stage tendering procedures. On the basis of technical specifications, in the first stage the procuring entity will request from the tenderers, besides the qualification requests, the work volumes and other opinions related to the object. After the work volumes have been fixed, the Procuring Entity in the second stage asks *for* the price of the tenders.

As far as requests for qualification, technical specifications or evaluating criteria are concerned, there will be used the same procedures applied when procuring construction works.

2. Goods

The invitation to tender for goods should be made on the basis of CIF prices, where the supplier includes also the transportation and insurance of the goods. The evaluation and selection is made on the basis of CIF prices. If the Procuring Entity undertakes the transportation and insurance of the goods through local companies, the tenderers may be requested to present in their tenders based in FOB prices. In this case, the evaluation and selection are made with CIF prices, but the Procuring Entity may sign the contract with FOB prices and will be itself responsible for the transportation and insurance of the goods.

If the tender documents require, the contracts for the delivery of goods should guarantee full payment for the contracted goods after their delivery and control, with the exception of contracts for installation and starting of the machinery. In these cases a part of the payment may be made after the supplier had fulfilled all its contracting obligations. Payment through irrevocable Letter of Credit confirmed by the Albanian Banks should gain priority in order to ensure direct payment for the supplier.

Technical specifications should clearly provide a description of the goods related to their quality, function, safety, dimensions, symbols, terminology, packing, marketing and labeling on the basis of article 14 of law 7971, dated 26.7.1995.

The delivery schedule of the goods should clearly provide the way and time limits the procuring entity has requested for the delivery of these goods.

After evaluating the technical specifications and delivery schedule of the goods, the only evaluating criterion will be the price of the good.

In the case when the evaluating criteria are more than one, some other factors may be taken into consideration as expenditures for internal transportation and insurance up to the delivery place, payment schedule, delivery time, operational expenses, equipment effectiveness and suitability, services and spare parts. Besides the price which will be used for determining the lowest cost tender, the specific weight of all these factors should be determined; i.e. how many points will be given to each criterion and how will be the calculations for the successive tenderers. All the criteria set for the evaluation of the bids should be objectively fair and possibly expressed in numbers. In every case when there are more than one evaluating criteria the price of the good should not have less than 80 points.

The ranking of the points will be calculated through the following formula:

$$P_i = V_{\min} \times P_{\max} / V_i$$

3. Services

The type of service required should be clearly described, with all the specific characteristics of the procuring entity for its quality and time schedule.

If the requests of the procuring entity are clear and complete, then the only evaluating criterion of the tenders may be the price of the service.

In special cases, when the evaluating criteria are more than one, all the criteria that determine tenders' evaluation should be objective and possible expressed in numbers. It should also be stated the weight of every criterion and the way of calculating the points for the tenders.

When the criteria are expressed in points the calculating formula will be:

$$P_i = V_{\min} \times P_{\max} / V_i$$

In every case when the criteria are more than one, the weight of the criterion of price should not be less than 80 points.

3.1 Designing services

The terms of reference should be complete and clear in such a way that provides equal opportunities to all the tenderers. They should also state the available fund for the construction of the object.

In the technical specifications there should be clearly stated all the requests of the Procuring Entity for the design of the object, the functional and technological aspect of the works, the materials to be used etc.

In the requests for qualifications there should be clearly stipulated the minimal requests related to:

- qualifications and licenses of the persons that will be directly involved in the design of the object, management of construction works or consulting services, i.e. curriculum vitae of each of the staff;
- similar designing services proved by the certificates of the investor (if designed before 1992, their total value will be calculated through conversion coefficients).

Except for requests for qualification, the candidates will be requested to present the preliminary design and the preliminary bill of quantities with equal prices for all the tenderers (the procuring entity, in the tender documents will give instructions for these prices). The tenderers will also state the price of the design that will be an evaluating criterion.

During the preparation of tender documents for designing services, according to article 39, paragraph 2/c, there should be stipulated in the tender documents that all tenderers will be excluded from the procurement process of goods or works related to the design under discussion.

In the tender documents for designing services, the procurement order will also include the available fund, which is the amount to be used for the payment of the design and not the total fund for the object; this will be stated in the terms of reference.

The evaluating criteria for the designs will be: not less than 75 points for the technical offer i.e. quality of the design; 15 points for the economic offer i.e. the value of the preliminary bill of quantities and about 10 points for the price of the design.

The bill of quantities of the final design, that reflects all remarks of the technical council should not surpass the amount of the preliminary bill of quantities prepared on the basis of the preliminary design and presented for bidding; if it is not so, the contract security of the designer will be forfeited.

A designer can not be part of designing staff of two different designing companies that participate in the tender for the same object.

Two-stage tendering may be applied in the cases when a final design will be procured, the preliminary design of which has been defined in general lines and a routine tender of designing process will provide different solutions, the comparison of which would be senseless (e.g. pavement of existing roads, water supply and sewerage network).

In the first stage the candidates will be requested to submit the preliminary bill of quantities with the same prices for all the tenderers (in the tender documents, the Procuring Entity will give due instructions for these prices) together with details of the preliminary design which may influence the value of the bill of quantities.

After the Procuring Entity will decide on the basis of the submitted tenders for the best offer together with the preliminary bill of quantities, the procuring entity announces the second tendering stage to obtain tenders for the price of the design.

In this case price is the only evaluating criterion.

IV. COMMISSIONS

The commission of tenders' evaluation should consist of not less than 5 members, specialists of the specific field and one economist. It is recommended that the Vice-Head of the Procuring Entity to be the Chairman of the Commission. The Head of the Procuring Entity can not be the Chairman of the Commission.

The Procurement Unit (or the persons that compile the tender documents) consists of not less than 2 specialists of the respective field and one lawyer.

The Procurement Unit together with the tender evaluation commission prepares the tender documents as defined in the procurement order.

In special cases, depending on the complexity of the object to be procured, the tender documents may be prepared by a specialized technical group, Albanian or foreign.

When procuring designs, the evaluating commission should be a kind of technical council. It should consist of not less than 7 specialists of the respective field. In this case the procuring entity should determine the opposition for every design.

The procurement unit is responsible for making announcements or distributing invitations to tender (in restricted tendering), sending for publication in the Bulletin of Public Procurement of the invitation to tender, obtaining the materials needed for the tender documents (as maps,

designs, bill of quantities, technical conditions, standards etc) preparation of tender documents with the respective forms, respecting the time limits as defined by the Decision of the Council of Ministers no.12, dated 1996 and, according to these guidelines, the calculation of the price for selling the tender documents to the tenderers (on the basis of article 27 of law no 7971, dated 26.7.19950), and handling the tender documents to the tenderers.

The lawyer, who is member of the group that prepares the tender documents, is responsible for implementing the envisaged procedures on the basis of the existing legislation; he also enjoys the right to suspend these procedures when he notices any infringements.

The Evaluating Commission participates together with the Procuring Entity in the compilation of tender documents and is responsible for the special part of these documents related to the technical specifications and requests for qualification, as well as for the evaluating criteria. During the preparation of the tenders by the tenderers, the procuring entity is obliged to clarify to the tenderers any question that may arise to them during the preparation of their tenders which is related to the tender documents. If this question or clarification is a kind of interpretation requested in a written form or an addendum that should be given by the procuring entity, then, on the basis of article 28 of law no 7971, dated 26.2.1995, these addendum should be sent to all the tenderers despite the fact that have requested it or not and it will constitute an integral part of the tender documents.

If the opinion of the evaluating commission is needed for the clarifications requested by the tenderers, then the procuring entity through the head of the commission, should organize a meeting of the commission or even a meeting of the commission with the tenderers if necessary.

In national tenders the tenders will be submitted in the place, date and time specified these in the Invitation to Tender.

In the place, date and time defined in the Invitation to Tender and in the presence of the representatives of the participating companies, the commission receives the tenders in national tendering, or opens the tenders of international tendering when the tenders have been previously received.

Members of the evaluating commission should not have any business, kinship or interests relations to the tenderers.

The tenders submitted in conformity with the requests provided in the guidelines for the participants in tendering are reviewed by the commission. The other irregular tenders are turned back to the tenderers.

After opening the tender, the procedure starts with the qualification documentation. The documents are immediately examined in the presence of the commission and representatives of the companies.

The tenderers that have not fulfilled the qualification requests are considered as disqualified.

When it is possible for the verification to be made on the spot, the technical and economic tenders should not be opened without completing the qualification process of the tenderers. The tenderers that have fulfilled the qualification requests, are considered as qualified with the exception of the cases mentioned in article 12, paragraph 6 of Law No. 7971, dated 26.7.1995.

The commission opens the technical-economic tenders after having declared the disqualified companies, and read in a loud voice the total value of the tenders as well as the time deadlines when time is an evaluating criterion.

All the pages that present the calculations for the final value of the tender, are signed by all the members of the commission.

The minute of opening of the tender is prepared in conformity with the requests of the Article 31, item 3 of law 7971, dated 26.7.2995.

The whole documentation opened by the commission is part of the tender file and is not turned back to the tenderers after the end of the tendering process.

After receiving the tenders the commission should select the best tender on the basis of the criteria established in the tender documents, in conformity with article 32 of the Law No.7971, dated 26.7.1995, and the ranking classification of all other tenders.

The decisions of the commission are reached through consensus or majority of open votes and not through secret voting.

The procuring unit should be present during the work of the evaluating commission and might give opinions or make remarks.

The procuring entity should keep and sign all the records of commission work, which should also be signed by all the members of evaluating commission, collect and keep in a separate file all the documentation of tendering, (procurement order, announcements, etc decision for announcing the winner); at the end of the procuring procedures, the Procuring Entity should submit the file in the archive of the Procuring Entity , where it should be preserved according to paragraph 10 of the Decision of the Council of Ministers, dated 1.1.1996.

The Chairman of the Commission organizes the work of the commission during the tendering process and together with the lawyer, which are responsible for following up tendering procedures according to the existing laws and regulations.

The Chairman of the Commission prepares the ranking list of the tenders and officially announces it to the tenderers.

V. THE HEAD OF THE PROCURING ENTITY

The tenderers that do not agree with the decision of the procuring entity and want to know the reasons for the rejection of their tender, enjoy the right to complain at the Procuring Entity within 10 days from the receipt of the official announcement.

In this case only the tender of the claiming candidate will be reviewed, and not the other tenders.

The head of the Procuring Entity may suspend tendering procedures if the complaint is upheld, or in the opposite case he is entitled to clarify and respond on the basis of article 44, paragraph 2, of the Law 7971, dated 26.7.1995 to all the complaints that have been submitted to the Procuring Entity within 10 days: from the official announcement on classification of the tenders from the evaluating commission.

VI. APPROVAL

The procuring entity prepares a summary report according to article 7, paragraph 2 of the Law no. 7971, dated 26.7.1995, reflecting all the complaints (if any), the respective answers and sends this report to the central or local body that makes available the funds.

The Head of the Procuring Entity on the basis of the report and possible complaints sent by the Procuring Entity decides whether it is necessary to seek for review the complete file of tender documents; in the opposite case he approves the winner of the tender and makes available the necessary funds.

After reviewing the requested documentation, the central or local organ should give the approval or corrective measures, if any, not later 20 days from the receipt of the documentation.

Only after the approval of the organ that manages the funds, the procuring entity is entitled to announce the winner and to sign the contract for the procured object.

Winner announcement and contract signing before receiving the written approval of the organ that possesses the fund are not valid.

The candidate that is not satisfied with the answer of the procuring entity is entitled to further express his complaint according to article 44, item 3, Law no 7971, dated 26.7.1995. The Head of the Procuring Entity, after receiving the approval from the central or local body, informs the winner before the expiry of the validity period of his tender in conformity with the respective form in the tender documents.

The validity period will be estimated by the procuring entity, by adding the time the commission will need to review the tenders to the time needed for receiving complaints, giving approval and signing of the contract.

If the central or local organ that makes available the fund turns back to the Procuring Entity the classification of the tenders, the validity period may be postponed.

The tender documents are constituent part of the contract signed by the two parties.

VII. GENERAL ISSUES

Temporary joint- ventures of companies will be admitted to participate in tendering, on the following conditions:

-There is a contract among the companies where there are clearly specified the works that will be realized by each of the companies and the way the profit will be shared among them.

-Through written Power of Attorney one of the companies is nominated as being in charge of the joint group of companies it will represent the other companies in all the steps of tendering till contract signing.

-The companies should have joined together not later than two weeks before the date of submission of the tenders.

All the conditions for participation in tendering of the joint companies should be clearly revealed in the tender documents.

Subcontracting. When the contractor aims at carrying out some of the works through other subcontractors, it should present in the tender documents the complete set of documentation requested for the subcontractor and the concrete works it is going to subcontract.

Repetition of the tendering procedures. If all the tenders are rejected because of lack of competition (there is submitted only one tender), or all the tenders do not fulfill the qualification conditions, tendering procedures should be repeated.

In this case the Procuring Entity should find the reasons of such a rejection and review the tender documents.

When tender documents are redone, the Procuring Entity may decide to invite only those companies that presented tenders the first time, if they are not less than three.

In limited tendering also the list of the invited companies should be reviewed. These guidelines come into force immediately.

PRIMEMINISTER

ALEKSANDER MEKSI

REPUBLIC OF ALBANIA
Council of Ministers

D E C I S I O N

No. 335 dated 23.06.2000

(Updated by Decision Nr. 228, date 24.5.2002)

ON

PUBLIC PROCUREMENT REGULATIONS

In implementation of Article 100 of the Constitution, and Article 8, paragraph 2/a, of Law no. 7971, date 26.07.1995 *On Public Procurement*, by the proposal of the Deputy Prime Minister and Minister of Labour and Social Affairs, the Council of Ministers,

D E C I D E D

- I. The procurement entity should use the procurement procedure “Open Tender”, in according to article 23 of law nr. 7971, dated 26.7.1995 “On Public Procurement”, in cases where the calculated value of the contract is more than 5 (five) million leke for the procurement of construction, more than 3 (three) million leke for procurement of goods, and more than 1 (one) million leke for procurement of service, with the exception of design services, where reference shall be made to the value envisaged for the procurement of the construction and not that of the service. The procurement entity will use the procedure “International Open Tender”, when the calculated value of the contract is more than 300 (three hundred) million leke.
- II. A procuring entity shall use “restricted tendering”, according to letter “b”, Article 18, and Article 36 of the said Law, when the estimated value of the contract is less than 5 (five) million leke for the procurement of construction, less than 3 (three) million leke for the procurement of goods and less than 1 (one) million leke for the procurement of services, with the exception of design services, where reference shall be made to the value envisaged for the procurement of the construction and not that of the service.

In this case the procuring entity shall obtain tenders by no less than 3 (three) candidates. In the case of an international tendering, the procuring entity shall obtain at least 3 (three) tenders from no less than 3 (three) different countries.

- III. A procuring entity shall use a “request for quotation”, according to Articles 22 and 40 of the said Law, when the estimated value of the contract is less than 2 (two) million leke for the procurement of construction, 1 (one) million leke for the procurement of goods and 500,000 (five hundred thousand) leke for the procurement of services.
- IV. A procuring entity shall use “direct procurement”, according to Article 19 of the said Law when:
- a) Point 1/b/c/ç, for a value not bigger than 30 percent of the initial contract, when the need for additional funds is identified during the contract implementation phase, up to 3 months after its implementation.
 - b) For small value procurements, when the calculated value of procurement for each item is not bigger than 300 (three hundred) thousand leke within a calendar year. In the context of this decision, the word ‘item’ means a group of goods that have the same name and same main function.”
 - c) In respect of the Department of Governmental Services, when the estimated purchase price of each item is less than 600,000 (six hundred thousand) leke, within a calendar year.
 - ç) The procurement entities, in order to fulfill the needs they have at the beginning of the year, are allowed to have additions to contracts with their last contractors for goods or services. These additions to contracts are valid until the contract signing period, for available funds.
- V. The period from the announcement of invitation to tender to the day of the submission of tenders shall be:
- a) In the case of “open tendering”, no less than 20 (twenty) days for the procurement of construction, goods and services;
 - b) In the case of “restricted tendering”, no less than 15 (fifteen) days for the procurement of construction, goods and services;
 - c) In the case of “request for quotation” no less than 10 (ten) days for the procurement of construction, goods and services;
 - d) In the case of international procedures, no less than 45 (forty-five) days.
- VI. The condition for tender security, in the form of bank a guarantee, according to Article 29 of the said Law, shall be 2-5 per cent of the estimated contract value (first estimated by the procuring entity and given in absolute value in the tender data), and the contract security condition shall be 10 per cent of the contract value.

- VII. Before announcing the winning tender or proposal, the procuring entity shall submit a summary report of procurements for prior review and approval:
- A. To the Head of the procurement entity for all the procurements with a value not bigger than 5 (five) million leke.
 - B. To the Head of the local or central organ, for procurements with a value above 5 (five) million leke, but not bigger than 100 (hundred) million leke.
 - C. To the Public Procurement Agency in respect of procurements of over 100 (one hundred) million leke.
- VIII. The successful bidder must declare to the procuring entity, through signing the contract form, his/her will to conclude the contract within 15 days from the receipt of notification, in respect of open or restricted tendering and invitation for quotation, and open or restricted international tendering.
- In case within this term the response by the successful bidder is negative, the procuring entity is entitled to notify the second-ranking participant in the classification and at the same time effect forfeiture of the tender security of the winning participant.
- IX. The procuring entity is bound to establish a procurements register at the start of each year, where records relating to the observance and application of procurement procedures are entered.
- X. All procurement entities should submit for publication to the Public Procurement Agency, the invitation for bids for the “Open Tender”, “Limited Tender”, and “Request for Quotation”, not later than 10 days before its announcement, with the exception of cases for use of the procurement procedure according to point 3, article 17 of the law nr. 7971, date 26.7.1995 “On Public Procurement. In addition, in respect of a tender which is published in the Public Procurement Bulletin, the procuring entity is bound, prior to contract signing, to make a public notice of the successful bidder in the Public Procurement Bulletin.
- XI. The procurement entities, by the 30th of January, should present to the Public procurement Agency accurate statistics for the annual planning of procurements. As well, they should present to the Public Procurement Agency the changes to the public procurement plan during the calendar year. The procurement entities at the end of each quarter, by the 20th of the following month, should present to the Public Procurement Agency the indicators of procurement plan performance, together with explanatory information. To accomplish this task, the Head of the procurement entity authorizes the procurement unit (if such unit exists) or a responsible structure that plans the entity’s procurement funds. The Public Procurement Agency, by the 30th of the same month, should submit to the Council of Ministers a summary table for procurement at a national level.

XII. For an action or inaction of a procurement entity, considered by a candidate to be an abuse of the procurement law or regulations, the candidate is free to have an administrative review within the following terms:

- A. at the procurement entity within 5 (five) days after the announcement of the final classification of bids:
- B. at the local or central organ that provides the funds, within 5 (five) days after the deadline of complaint at the procurement entity: the Central or local organ is obliged to provide an answer within 10 days after receiving the complaint.
- C. at the Public Procurement Agency within 5 (five) days after receiving the answer from the local or central organ that provides the funds.

XIII. In case a procurement procedure is subject to review by the Public Procurement Agency, the procuring entity is bound, within 5 (five) days from the moment this decision is issued, to submit a summary review report to the Public Procurement Agency.

XIV. The procuring entity shall maintain and make available to inspection authorities the procurement register, records and complete documents of any procurements effected. Maintenance of these documents shall be made in compliance with the terms stated in the Law *On Archives*.

XV. The Council of Ministers Decision no. 12, date 01. 01. 1996, *On Public Procurement Regulations* is repealed.

This Decision enters into force upon its publication in the *Official Journal*.

PRIME MINISTER

ILIR META

**STANDARD BIDDING DOCUMENT
(For Procurement of Goods)**

I. INSTRUCTIONS TO BIDDERS

A. General

1. **Subject** : The Purchaser invites bidders to bid for the goods and services as specified in Bid Data Sheet.
2. **Source of Fund** : The source of fund (state budget, loan, grant) is specified in Bid Data Sheet.
3. **Eligible Bidders** : This invitation for Bids is open to all suppliers ; local/ foreigner/joint-venture/prequalified
4. **Eligible Goods and Services** : All goods and related services to be supplied under the Contract shall have their origin in eligible source countries. For purposes of this clause, “origin” means the place where the goods mined, produced or from which the related services are supplied, proved as specified in Schedule of Requirements.
5. **Cost of Bidding** : The Bidder shall bear all costs associated with the preparation and submission of its bids, and such costs will not be part of the bid price.

B. The Bidding Documents

6. **Content of Bidding Documents**: The Bidding Documents include:

- a. Invitation for Bids
- b. Instructions to Bidders (ITB)
- c. Bid Data Sheet (BDSH)
- d. Bid Form
- e. Goods Description
- f. Schedule of Requirements
- g. General Conditions of Contract (GCC)
- h. Special Conditions of Contract (SCC)
- i. Bid Security Form.
- j. Performance Security Form
- k. Technical Specifications
- l. Delivery Schedule.
- m. Manufacturers Authorization Form.

7. **Clarification of Bidding Documents** : A prospective Bidder requiring any clarification of the Bidding Documents may notify the Purchaser in writing at the Purchaser’s mailing address indicated in Invitation to Bid. The Purchaser will respond in writing to any request for clarification of the Bidding Documents which it receives no later than 15 days from

the date of receipt. Written copies of the Purchaser's response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective Bidders, which have received the Bidding Documents.

8. Amendment of Bidding Documents : At any time prior to the deadline for submission of bids, the Purchaser, may modify the Bidding Documents by amendment.

The amendment will be notified in writing to all prospective Bidders which will have to confirm receipt of the amendments.

The Purchaser at its discretion, may extend the deadline for the submission of bids in conformity with the art. 28 of Public Procurement Law nr.7971 dt.26.07.1995, if that amendment is made less than 1/3 of time allowed for the preparation of bids.

C. Preparation of Bids

9. Language of Bid : The language of Bids will be the one specified in the Bid Data Sheet.

10. Documents Comprising the Bid :

- a. Bid Form
- b. Price Schedule completed by the Bidder
- c. Documentary evidence that the Bidder is qualified.
- d. Delivery Schedule
- e. Manufacturer's Authorization (if other than the Bidders)
- f. Bid Security

11. Bid Prices : The Bidder shall indicate the prices on the appropriate Price Schedule, in the currency indicated in the Bid Data Sheet the unit prices.

The price should include all taxes and duties payable on the goods according to Albanian law.

12. Period of Validity of Bids : Bids shall remain valid for the period specified in Bid Data Sheet.

13. Bid Security : The bidder shall furnish, bid security in the amount and currency specified in Bid Data Sheet.

Bids without bid security will be rejected as non-responsive. Unsuccessful Bidder's bid security will be discharged within 15 days after the expiration of the bid validity period. The successful Bidder's bid security will be discharged upon Bidder signing the Contract and furnishing the performance security. The bid security may be forfeited by the Purchaser pursuant to article 29 of Public Procurement Law.

14. Alternative Bids : Bidders may give alternative or additional proposals, if it is asked for in Bid Data Sheet. During Evaluation of Bids only proposals of the successful Bidder will be taken into account.

15. Signing of Bid : The original and the copy (copies) of the bid shall be typed or written in indelible ink and shall be sealed and signed by the Bidder or a person or persons duly authorized to bind the Bidder to the Contract.

D. Submission of Bids

16. Envelopes : The Bidders shall put the original documents required in clause 10/c of BDSH in a sealed envelope with the words “Original Qualification Documents”. In another sealed envelope with the words “Original Bid” will be put all original documents required in Clause 10/a, b, d, e, f of ITB.

Copies of the above documents will be put in envelopes bearing the sign “Copies of Qualification Documents”, “Copies of Bid Documents”. In the event of any discrepancy between them, the original shall govern.

The inner and outer envelopes shall indicate: the name and address of the Purchaser, project title, name and address of the Bidder, and the words “Do not open before _____” (insert the time and date specified in Bid Data Sheet).

17. Additions and Amendments : Additions and Amendments to the Bid as result of Purchaser’s request (Clause 8 of ITB) will be presented as described in Clause 16 of ITB and will be submitted before the deadline of Bid Opening.

E. Opening of Bids and Evaluation

18. Opening of Bids : The Purchaser will accept and open bids, in the presence of bidders’ representatives who choose to attend, at the time, on the date and at the place specified in Bid Data Sheet. Bids received after the deadline will be returned unopened to the Bidder.

The envelope marked “Original Qualification Documents” will be opened first. If the Bid does not comply with the Qualification Requirements it will be considered nonresponsive.

The envelopes with the “Original Bid Documents” will be opened to all qualified bidders and bidders’ names and bid prices declared in Bid Form will be announced. Minutes of the bid opening will be prepared and copies may be given to bidders’ representatives.

19. Clarification and Evaluation of Bids : The Purchaser may ask the Bidder for a clarification of its bid. Changes of Bids are not allowed, except for arithmetical errors correction, which are immediately shown to the Bidder.

The Purchaser with the approval of the Bidder corrects the total price. If the Bidder does not accept the correction of errors, its bid will be rejected. In such case, the Purchaser will forfeit the Bid Security.

Arithmetical errors will be rectified on the following bases:

- (1) If there is a discrepancy between words and figures, the amount in words will prevail.
- (2) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail.

The Purchaser will evaluate and compare the bids previously determined to be substantially responsive, pursuant to Technical specifications and Evaluation criteria given in Bid Data Sheet. The comparison shall be of ex-factory/ ex-warehouse/ off-the-shelf price of the goods such price to include all costs as well as duties and taxes payable on production and the CIF port-of-entry (or COP border point or place of destination) price of the goods offered from outside the Purchaser’s country. Delivery terms will be defined in Bid Data Sheet pursuant to the “Incoterms 1990” published by the Chamber of Commerce, Paris.

The Purchaser’s evaluation of a bid will take into account the following factors.

- (a) Cost of inland transportation, insurance and other costs within the Purchaser’s country incidental to delivery of the goods to their final destination as specified in Bid Data Sheet.
- (b) Delivery schedule offered in the bid
- (c) Deviations (if any) in payment schedule from that specified in the Special Conditions of Contract
- (d) The cost of obligatory spare parts and service:
- (e) Spare parts necessary for the after-sales services period of the equipment offered in the bid.
- (f) The projected operating and maintenance costs during 10 years of the life of the equipment.
- (g) The performance of the equipment offered.
- (h) Standardisation and environmental conditions.
- (i) Other goods equipment specific criteria indicated in Bid Data Sheet and/or in the Technical Specifications.

The following evaluation methods will be followed:

(a) Inland Transportation, Insurance and Incidentals: Inland transportation, insurance and other incidental costs, for delivery of the goods, from ex-factory port of entry to project site will be computed for each bid by the Purchaser on the basis of published tariffs by the rail road transport agencies, insurance companies and or other appropriate sources. To facilitate such computation, Bidders shall furnish the dimensions and shipping weight and the approximate ex-factory /CIF or CIP border point or place of destination) value of each package.

(b) Delivery Schedule: The Purchaser desires to have delivery of the goods covered under the invitation, at the time specified in the Schedule of Requirements. The estimated time of arrival of the goods at the project site should be calculated for each bid after allowing for reasonable ocean and inland transportation time. Treating the bid offering the scheduled time of arrival as the base, a delivery “adjustment” will be calculated for other bids at _____% of the ex-factory price for each week of delay beyond the base and this will be added to the bid price for evaluation.

No credit will be given to earlier deliveries.

or

The goods covered under this invitation are required to be shipped within an acceptable range of (_____) weeks as specified in the delivery schedule. No credit will be given to earlier deliveries and bids offering delivery beyond the above mentioned range will be treated as unresponsive. Within this acceptable range of (_____) to (_____) weeks an adjustment of US\$ (_____) per week will be added to bids offered deliveries later than (_____) months for evaluation.

The goods under this invitation are required to be shipped in parties in accordance with the delivery schedule.

Bids offering deliveries earlier or later than the above schedule shall be adjusted in the evaluation by adding a factor of ex-factory/CIF (or CIP border point) value per week to the bid price. (as in Bid Data Sheet)

(c) Deviation in Payment Schedule: Bidders shall state their bid price for the payment schedule outlined in the Special Conditions of Contract. Bids will be evaluated on the basis of this base price. Bidders are however, permitted to state an alternative payment schedule and indicate the reduction in bid price they wish to offer for such alternative payment schedule. The Purchaser may consider the alternative payment schedule offered by the selected Bidder.

OR:

The Special Conditions of Contract indicate the payment schedule offered by the Purchaser. If a bid deviates from the schedule and if such deviation is considered acceptable to the Purchaser, the bid will be evaluated by calculating interest earned for any earlier payments involved in the terms outlined in the bid as compared to those stipulated in this invitation.

The annual interest rate will be specified in BDSH.

(d) Cost of Spare Parts. Appendix (_____) to the Technical Specifications lists the items and quantities of major assemblies, components and selected items of spare Parts, likely to be required during the initial period of operation of the plant as specified in BDSH. The total cost of these items and quantities at the unit prices quoted in each bid will be added to the bid price.

OR:

The Purchaser will draw up a list of high usage value items of components and spare along with estimated quantities of usage in the initial period of operation, as specified in BDSH. The total cost of these items and quantities will be computed from spare parts unit prices submitted by the Bidder and added to the bid price.

OR:

The Purchaser will estimate the cost of spare parts usage in the initial(_____) year period of operation, as specified in BDSH, based on information furnished by each Bidder as well as on past experience of the Purchaser or other Purchaser similarly placed. Such costs shall be added to the bid price for evaluation.

(e) **Spare Parts for a period of ____ years, quoted :** The cost to the Purchaser of establishing the minimum service facilities and parts inventories, as outlined elsewhere in the bid invitation, if quoted separately, shall be added to the bid price.

(f) **Operating and Maintenance Costs :** Since the operating and maintenance costs of the equipment under procurement form a major part of the life cycle cost of the equipment, these costs will be specified in the Bid Data Sheet/Technical Specifications.

(g) Performance and Productivity of the Equipment

(i) Bidders shall state the guaranteed performance or efficiency in response to the Technical Specification. For each drop in the performance or efficiency below the norm of 100, an adjustment as specified in BDSH will be added to the bid price, representing the capitalized cost of additional operating costs over the life of the plant, using the methods prescribed in BDSH and Technical specifications.

OR

(ii) Equipment offered shall have a minimum productivity specified under the Technical Specifications to be considered responsive.

(h) Other criteria as specified in Bid Data Sheet and/or Technical Specifications.

The merit point system to be applied in the valuation process will be specified in BDSH and/or in Technical Specifications.

If no one of the above mentioned criteria is specified in BDSH, the following merit point system will be applied:

Evaluated price of the equipment	60 to 90
Price of common list spare parts	0 to 20
Contract for maintenance and operating	0 to 20
Performance period	0 to 20
Standardization	0 to 20
Total	100

The Purchaser reserves the right to reject all bids at any time prior to notification of award.

20. Confidentiality : All information regarding clarification and evaluation of bids will not be disclosed to Bidders or other persons which are not involved officially in the process.

E. Notification and Award of Contract.

21. Award : The Purchaser will award the contract to the successful Bidder whose bid has been determined to be substantially responsive and which has scored the highest number of points.

22. Notification of award: Prior to the expiration of the period of bid validity, the Purchaser will notify the successful Bidder in writing. The successful bidder will send the Contract Form signed to the Purchaser or inform in writing about his refusal to sign the contract within the date specified in the Notification of Award.

23. Signing of Contract: The contract will be signed after negotiations and furnishing of performance security by the successful bidder as specified in BDSH.

24. Disputes: Eventual disputes will be presented to the Law or Arbitration Court specified in Bid Data Sheet.

BID DATA SHEET

The following bid-specific data for the goods to be procured shall amend/supplement the provisions in Instruction to Bidders (ITB). Whenever there is a conflict, the provisions herein shall prevail over those in ITB.

1. The Purchaser's country is : Albania
2. The Goods & Services to be Procured are :
3. Source of Fund :
4. Total fund :
5. Project Title is :
6. The Purchaser is :
7. The Purchaser's Address is :
8. Bid submission deadline is :
9. Language of the Bid shall be :
10. Delivery Terms :
11. Delivery Schedule :
12. The Currency of Bid :
13. Bidder's Eligibility and Qualifications :
14. Requirement of Spare Parts etc. for _____ years of Operation.
15. The bid security amount (not less than 2% of the bid price)
In the case of alternative offers, the bid security shall be calculated on the basis of the highest priced alternative.
16. Bid Validity Period shall be :
17. Local currency rate :
18. The bid submitted shall include one original and ____ copies.

19. The Date and Time of Bid Opening are :
20. The currency chosen for the purpose of converting to a common currency :
21. The date chosen for currency conversion is :
22. Evaluation Method selected is :

REPUBLIC OF ALBANIA

(Name of Purchaser)

PROT.____ NO.

Date_____

NOTIFICATION OF AWARD

The (name of Purchaser) notifies (name and address) that the Bid presented in (date) for the supply of (object of procurement) for the total sum of (in figures and words) (corrected and modified according to Bid Data Sheet) is accepted.

The Bidder (name) is asked to present to (name and address of Purchaser) within (date) the Contract Form properly signed.

If you withdraw from signing, please notify within the above date.

(The Purchaser)

(name, signature and seal)

BANK GUARANTEE FOR ADVANCE PAYMENT

To : (name and address of Purchaser)

(name of Contract)

In accordance with the provisions of the General Conditions of Contract of the above mentioned Contract, (name and address of Supplier) shall deposit with the Purchaser a bank guarantee to guarantee its proper and faithful performance of the Contract in an amount of (amount in figures and words) .

We, the (name of bank) , as instructed by the Supplier, agree unconditionally and irrevocably to guarantee the payment to the Purchaser on its first demand in the amount of (amount in figures and words) .

We further agree that no change or addition to the Contract thereunder, shall in any way release us from any liability under this guarantee.

This guarantee shall remain valid and in full effect from the date of the advance payment under the contract until (date) .

Yours truly,

Signature and seal : _____

Name of the Bank : _____

Address : _____

Date : _____

MANUFACTURER’S AUTHORIZATION FORM

To : (name and address of Purchaser)

Whereas (name of the manufacturer) who are established manufacturers of (name of goods) having factories at (location of factories) do hereby authorize M/s (name and address of agents) to bid, negotiate and conclude the contract with you against Invitation for Bid no. for the goods manufactured by us.

No company or firm other than M/s (name and address of agent) are authorized to bid, negotiate and conclude the contract for the above goods.

We hereby extend our full guarantee and warranty for the goods offered for supply against this invitation for bid by the above firm.

Signature and Seal of Manufacturer

BID SECURITY FORM

BANK GUARANTEE

Ref.No. _____

Date _____

Whereas (name and address of the Bidder) has submitted its bid dated _____ for the supply of (subject of procurement) has deposited at (name and address of the Bank) the amount of (total amount in figures and words) as Bid Security of the above bid.

The Bank binds itself to pay the Purchaser (name and address) this bid security in case :

1. If the bidder withdraws its Bid during the period of bid validity.
2. If the Bidder fails or refuses to execute the Contract Form, having been notified of the acceptance of its bid.
3. If the Bidder fails or refuses to furnish the Performance security.

We undertake to pay to the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser will note the occurrence of one of the above conditions.

This guarantee will remain in force up to and including 30 (thirty) days after the period of bid validity.

Signature and Seal of the Bank

PRICE SCHEDULE FOR GOODS

(To be completed by Foreign Suppliers)

Name of Bidder _____

Page ___ of ___

1	2	3	4	5	6	7
Item	Description	Country of origin	Quantity	Unit Price FOB- Port of Loading (Specify Port) or FCA- (name of place)	Unit Price CIF Port of entry (Specify Port) CIP Border Point/ (CIP Place of Destination)	Total (4x6)

Signature of Bidder

PRICE SCHEDULE FOR GOODS

(To be completed by Bidders located in the Purchaser's Country)

Name of Bidder _____

Page __ of ____

1	2	3	4	5	6	7
Item	Description	Country of origin	Quantity	Unit Price ex-work ex warehouse exshowroom off-the-shelf	Unit Price CIP final destination	Total (4x6)

Signature of Bidder

SPECIAL CONDITIONS OF CONTRACT

The following Special Conditions of Contract shall supplement th General Conditions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in General Conditions of Contract.

1. Definitions (GCC Clause 2)

- 1.1 The Purchaser is
- 1.2 The Purchaser's country is
- 1.3 The Supplier is

2. Delivery and Documents (GCC Clause 11)

The Supplier shall arrange to deliver the following documents :

a) For imported goods upon shipment, the Supplier shall mail the following documents to the Purchaser such that the documents are received by the Purchaser at least ____ weeks prior to the arrival of the equipment and material at the port of entry, with a copy to the Insurance company :

- (i) Original and two copies of the Supplier's invoice showing the Contract number, Goods description, quantity, unit price, total amount;
- (ii) Original and two copies of the bill of lading;
- (iii) Three copies of packing list identifying contents of each package;
- (iv) Original and two copies of insurance certificate ;
- (v) Original and two copies of the manufacturer's/supplier's guaranty certificate ;
- (vi) Original and two copies of the inspection certificate, issued by the nominated inspection agency and the supplier's factory inspection report ;
- (vii) Original and two copies of the certificate of origin.

The above documents shall be received by the Purchaser at least ____ weeks before the arrival of goods at the port and, if not received, the Supplier will be responsible for any consequent expenses.

b) For domestic goods the supplier shall deliver to the Purchaser the following documents :

- (i) Original and two copies of the Supplier’s invoice showing Goods description, quantity, unit price, total amount;
- (ii) Delivery note/railway receipt/truck receipt ;
- (iii) Original and two copies of the manufacturer’s/supplier’s guaranty certificate ;
- (iv) Original and two copies of the inspection certificate, issued by the nominated inspection agency and the supplier’s factory inspection report ;
- (v) Original and two copies of the certificate of origin.

3. Inspection prior to shipment (GCC Clause 12)

12.1 Date of shipment

4. Insurance (GCC Clause 13)

13.4 The insurance shall be in the amount equal to 110% CIF/CIP value of goods from “warehouse” to “warehouse” on “All risks” basis.

5. Packing (GCC Clause 16)

Purchaser will draft requirements for packing according to goods specifics.

6. Payment (GCC Clause 17)

17.1 Payment will be made when the above delivery documents are presented.

7. Advance Payment (GCC Clause 18)

18.2 The percentage of advance payment shall be ____% of contract price.

8. Incidental services (GCC Clause 26)

The Supplier may be required to provide any or all of the following services :

- (a) Performance or supervision of on-site assembly and/or start up of the supplied goods ;

- (b) Furnishing of tools required for assembly and/or maintenance of the supplied goods ;
- (c) Furnishing of manuals of operation and maintenance of goods ;
- (d) Performance, supervision, maintenance and/or repair of the supplied goods for a period of time _____, provided that this service shall not relieve the supplier of any warranty obligations under this Contract ;
- (e) Conduct of training of the Purchaser’s personnel in assembly, start up, operation, maintenance and repair of the supplied goods.
- (f) Information about each possible change or renewal of goods

9. Warranty (GCC Clause 27)

- 27.4 Warranty period for goods :
- 27.5 Warranty period for repairment work :
- 27.6 Spare parts :

The supplier may be required to provide any or all of the following materials and notifications pertaining to spare parts manufactured or distributed by the Supplier :

- (a) Supply of such spare parts elected to be purchased from the Supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract;
- (b) In the event of termination of production of the spare parts :
 - (i) advance notification to the Purchaser of the pending termination, in sufficient time to permit the Purchaser to procure needed requirements ;
 - (ii) following such termination, furnishing at no cost to the Purchaser, the blueprints, drawings and specifications of the spare parts, if and when required.

10. Performance Bond (GCC Clause 28)

- 28.1 Amount of Performance Bond is :

REPUBLIC OF ALBANIA

(name of Purchaser)

Prot. _____ **No.** _____

Date _____

INVITATION FOR BIDS

1. _____ with the fund of _____
(Name of Purchaser) (total fund in figures and words) from
_____ intends to purchase _____.
(source of fund) (name of goods)

2. _____ now invites in _____ sealed bids from
(The Purchaser) (Bidding procedure)
eligible bidders for the supply of _____.
(Brief description of goods and related services)

3. A complete set of Bidding Documents may be purchased at (name and address of Purchaser) by the interested Bidders on the submission of a written application to the above and upon payment of a non-refundable fee of _____. Interested eligible Bidders may obtain further information at (address of Purchaser).

4. All bids and must be delivered to the above address on or before (Date, hour), which is also the time of bid opening. Bids will be opened in the presence of Bidder's representatives who choose to attend.

5. The Bid Security will be forfeited if a Bidder withdrawals his bid during the bid validity period or refuses to accept the award of a contract when selected.

(Name, signature and seal of Purchaser)

BID FORM

Bidders shall fill and present this form together with their bid

Date _____

To : _____
(Name and Address of Purchaser)

We, the undersigned, offer to supply and deliver _____
(Description of goods and Services)
in conformity with the Bidding Documents for the sum of _____
(Total Amount in

_____ and to complete delivery of all the items in the contract
figures and words)

within _____ .
(Day, month, year)

This bid, together with your written acceptance thereof and your notification of award, shall constitute a binding contract between us. We acknowledge the right of the Purchaser to reject any or all bids.

We confirm that this bid meets the requirements specified in Bid Data Sheet.

(Signature and Seal)

(Address of Bidder)

PERFORMANCE SECURITY FORM
BANK GUARANTEE

Ref. _____ No.

Date _____

To : _____
(Name of Purchaser)

Whereas _____ has undertaken, in pursuance of
(Name of Supplier)

Contract No. _____ dated _____ 19____ to supply _____ ;
(Description of Goods and Services)

Whereas it has been stipulated by you in the said Contract that the Supplier shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with the Supplier's performance obligations in accordance with the Contract ;

Whereas we _____ have agreed to give the
(Name and Address of the Bank)

Supplier a Guarantee ;

Therefore we hereby affirm that we are Guarantors and responsible to you, on behalf of the Supplier, up to a total of _____
(Amount in Figures and Words)

and we undertake to pay you, upon your first written demand declaring the Supplier to be in default under the Contract and without cavil or argument, any sum or sums within the limits of _____.
(Amount of Guarantee)

We further affirm that the above obligations will be fulfilled without your need to claim the payments first to the Supplier. No addition or other modification of the Contract conditions shall in any way release us from any liability under this guarantee.

This guarantee is valid until the _____ day of _____ 19__.

(Signature and Seal of the Bank)

Date _____

Address _____

CONTRACT FORM

This Agreement made in _____ Between _____ of
(Day, month, year) (Name of Purchaser)
_____ of the one part and _____ of _____
(Purchaser's Country) (Name of Supplier) (Supplier's Country)

of the other part :

Whereas the Purchaser is desirous that _____
(Brief description of goods and services)

under the contract should be provided by the Supplier and the Purchaser has accepted a bid by
the Supplier for the supply of those goods and services in the sum of

(Contract Price in figures and words)

Now this agreement witnesseth as follows :

1. In this agreement words and expressions shall have the same meanings as are
respectively assigned to them in the Conditions of Contract referred to.

2. The following documents shall be deemed to form and be read and construed as part of
this agreement :

- a) Bid Form and Price Schedule submitted by the Bidder.
- b) Schedule of Requirements
- c) Technical Specifications
- d) General Conditions of Contract
- e) Special Conditions of Contract
- f) Purchaser's Notification of Award.
- g) Performance Security
- h) Bank Guarantee for Advance Payment

3. In consideration of the payments to be made by the Purchaser to the Supplier as
hereinafter mentioned, the Supplier hereby covenants with the Purchaser to provide the
Goods and Services and to remedy defects therein in conformity in all respects
with the provisions of the Contract.

4. The Purchaser hereby covenants to pay the Supplier in consideration of the
provision of the Goods and Services and the remedy of defects therein, the

Contract Price payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

In witness whereof the parties hereto have caused this agreement to be executed the day and year first above written.

(Signature and Seal of Purchaser)

(Signature and Seal of Supplier)

SCHEDULE OF REQUIREMENTS

1. Registration document of the Company
2. License to exercise the activity under the contract
3. Financial sources (if required)
4. Evidence that the Company is not in liquidation or bankruptcy
5. Evidence that no penal prosecution or trial is in process for activities under the contract
6. Evidence of fulfillment of fiscal obligations
7. Evidence of fulfillment of social security obligations
8. Bid security form

All the above documents shall be original or legalized copies. Documents shall have been released by competent authorities earlier than 3 months from the bid opening date.

Failure to present any of the above documents, incomplete or false declarations give the right to the Purchaser to reject the bid as unresponsive.

The Purchaser, at its discretion, reserves the right to require additional documents or information to the Bidders.

The foreigner prospective bidder may furnish a written declaration to demonstrate fulfillment of requirements number 5 and 6.

STANDARD BIDDING DOCUMENTS

Approved by the Decree nr.12.dd.01.01.1996

REPUBLIC OF ALBANIA

(name of procuring entity)

No.....Prot.

_____ (date)

a - INVITATION for BIDS

To: _____

(name and address of the company)

1. _____ has received a fund _____

(name of procuring entity)

_____ allocated by

(amount in figures and words, currency)

_____ and intends to perform _____

(source of fund)

(name of the project)

2. You are invited to submit your bid for _____

_____ *(brief description of the work to be performed)*

3. You can find attached a full set of documents to be used for the preparation of this bid (including drawings, technical specifications, bill of quantities, bid form).

4. Bids shall be submitted in sealed envelopes in _____

(address of procuring entity)

_____ at _____.

receiving office) (time and date of bid closing)

5. In case of withdrawal of the bid during the bid validity period and/or refuse of contract award if selected, his bid security will be forfeited.

Chairman of Procuring Entity

(name, signature, seal)

b - INSTRUCTIONS TO BIDDERS

A. General

1. **Scope of bid** : The procuring entity invites bids for the construction of works, as described in the Contract Data.
2. **Source of funds** : Budget, credit, loan, grant (including the name and identification number of the contract) are specified in the Contract Data.
3. **Eligible Bidders** : In the bid may participate local firms/ joint ventures/prequalified firms/ as specified in the Contract Data.
4. **One Bid per Bidder** : Each bidder shall submit only one bid . For Construction Works the form of Contract: Turnkey Contract/ Unit Price Contract based on Priced Bill of Quantities should be specified in the Contract Data.
5. **Cost of Bidding** : The bidder shall bear all costs associated with the preparation and submission of his Bid . This cost is not included in the Bid Price.
6. **Site Visit** : The Bidder , at the bidder’s own responsibility and risk, is encouraged to visit and examine the site of works in order to obtain all the necessary information for preparing the Bid. If the procuring entity considers this visit obligatory, the procuring entity will organise this visit , always at the bidder’s own risk, defining the exact date and time of the visit in the Contract Data, issuing a certificate of participation for each bidder. Such document will be part of the bidding documents.

B. Bidding documents

7. **Content of bidding documents.** The bidding documents comprise the documents listed below:
 - a. Invitation for bid
 - b. Instructions to bidders
 - c. Bidding data
 - d. Form of bid
 - e. Conditions of contract
 - f. Schedule of requirements
 - g. Form of bid security
 - h. Technical specifications and evaluation criteria
 - i. Drawings and bill of quantities.
 - j. Time of completion .

8. **Clarification of bidding documents** . A prospective bidder may require clarifications in writing from the procuring entity at the procuring entity address indicated in the invitation to bid. The procuring entity will respond to any request for clarification earlier than 15 days prior to the deadline for submission of bids. Copies of this response will be distributed to all purchasers of bidding documents without identifying the source.

9. **Amendments of bidding documents** Before the deadline for the submission of bids the procuring entity may modify the bidding documents. These modifications shall be communicated in writing to all purchasers of the bidding documents who shall acknowledge receipt of each amendment or modification. The deadline for the submission of bids can be extended if the procuring entity considers it reasonable .

C. **Preparation of bids.**

10. **Language of bids.** All documents related to the bid shall be in the language specified in the contract data.

11. **Documents comprising the bid.** The bid shall comprise the following:

- a. Bid form completed by the bidder
- b. Priced bill of quantities
- c. Qualification forms and documents
- d. Date of completion
- e. Alternative offers if invited

12. **Bid currency.** Bid price shall be in the currency specified in the bidding data. All duties, and taxes shall be included in the total bid price submitted by the bidder.

13. **Bid validity.** Is the period of time from bid opening to stipulation of contract. Bids shall remain valid for the period specified in the bidding data.

14. **Bid security.** The bidder shall furnish as part of the bid the bid security in accordance with the bid security form, in the amount specified in the bidding data. A bidder is automatically disqualified if he does not furnish the bid security.

The bid security of unsuccessful bidders will be returned within 15 days of the end of bid validity period.

The bid security of the successful bidder will be discharged when the bidder has signed the contract and furnished the required performance security.

The bid security is forfeited in accordance with the provisions of clause 29 of the law “On Public Procurement”

15. **Alternative proposals by bidders** Bidders shall submit alternative offers only if specified in the bidding data. Only the technical alternatives of the lowest evaluated bidder shall be considered by the procuring entity.
16. **Signing of bid.** The originals and all copies of the bid shall be signed by the bidder or by the authorised person on behalf of the bidder.

D. Submission of bids.

17. **Envelopes** Bidders shall seal the original documents as requested in clause 11/c of BDSH in a sealed envelope with the words “Original Qualification Documents”. In another sealed envelope with the words “Original Bid” will be put all original documents required in Clause 10/a, b, d, e, f of ITB.

Copies of the above documents will be put in envelopes bearing the sign “Copies of Qualification Documents”, “Copies of Bid Documents”. In the event of any discrepancy between them, the original shall govern.

The inner and outer envelopes shall indicate: the name and address of the Purchaser, project title, name and address of the Bidder, and the words “Do not open before _____” (insert the time and date specified in Bid Data Sheet).

17. **Additions and Amendments**: Additions and Amendments to the Bid as result of Purchaser’s request (Clause 8 of ITB) will be presented as described in Clause 16 of ITB and will be submitted before the deadline of Bid Opening.

E. Opening of Bids and Evaluation

18. **Opening of Bids** : The procuring entity will accept and open bids, in the presence of bidders’ representatives who choose to attend, at the time, on the date and at the place specified in Bid Data Sheet. Bids received after the deadline will be returned unopened to the Bidder.

The envelope marked “Original Qualification Documents” will be opened first. If the Bid does not comply with the Qualification Requirements it will be considered nonresponsive.

The envelopes with the “Original Bid Documents” will be opened to all qualified bidders and bidders’ names and bid prices declared in Bid Form will be announced. Minutes of the bid opening will be prepared and copies may be given to bidders’ representatives.

19. **Clarification and Evaluation of Bids** : The procuring entity may ask the Bidder for a clarification of its bid. Changes of Bids are not allowed, except for arithmetical errors correction, which are immediately shown to the Bidder.

The procuring entity with the approval of the Bidder corrects the total price. If the Bidder does not accept the correction of errors, its bid will be rejected. In such case, the Purchaser will forfeit the Bid Security.

Arithmetical errors will be rectified on the following bases:

- (1) If there is a discrepancy between words and figures, the amount in words will prevail.
- (2) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail.

The Purchaser will evaluate and compare the bids previously determined to be substantially responsive, pursuant to Technical specifications and Evaluation criteria given in Bid Data Sheet.

20. Confidentiality : All information regarding clarification and evaluation of bids will not be disclosed to Bidders or other persons which are not involved officially in the process.

E. Notification and Award of Contract.

21. Award : The Purchaser will award the contract to the successful Bidder whose bid has been determined to be substantially responsive and which has scored the highest number of points.

22. Notification of award : Prior to the expiration of the period of bid validity, the Purchaser will notify the successful Bidder in writing. The successful bidder will send the Contract Form signed to the Purchaser or inform in writing about his refusal to sign the contract within the date specified in the Notification of Award.

23. Signing of Contract : The contract will be signed after negotiations and furnishing of performance security by the successful bidder as specified in BDSH.

24. Disputes : Eventual disputes will be presented to the Law or Arbitration Court specified in Bid Data Sheet.

c - BIDDING DATA

This section should be filled out by the Procuring Entity before issuance of the bidding documents. Whenever there is any discrepancy, the provisions therein shall prevail over those given in the Instruction to Bidders.

**Instructions to
Bidders Clause
Reference (ITB)**

1. *Brief description of the works to be procured.*
 - 1.1 The Procuring Entity is _____ (*name and address*)
 - 1.2 Time of work execution _____ (*days/months*)
2. Source of fund _____ (*budget, credit, loan, grant*)
 - 2.1 Contract _____ (*name/identification number*)
3. In the tender may participate _____ *local firms / joint-ventures / foreign companies / prequalified companies.*
4. This bid shall be a “*Unit Price Contract based on Priced Bill of Quantities*” / “*Lump Sum Contract based in priced Activity Schedule*”
6. The date and time of the Site Visit is _____ (*date, time*) at _____ (*specify place*).
11. The language of Bid is _____ (*specify language*).
13. The Bid shall be presented in _____ (*currency*).
14. The period of Bid validity shall be _____ (*insert number*) days after the daedline for submission of Bids.
15. The Bid Security shall be a Bank Guarantee in conformity with the appropriate form and the required amount shall be _____ (*amount in figures and words*).
16. Alternative proposals to the Technical Specifications will be _____ with respect to _____
20. Time, date and place of Bid Opening are _____. The Bids shall be opened in public session with the presence of representatives of the bidders.

25. The Performance Security will be a Bank Guarantee in conformity with the appropriate form, _____ (*figure in %*) of the adjusted contract price.
26. The disputes will be resolved at the Court of _____ (*inset name of district*) in _____ (*name of country*).

Qualification Information.

- The qualification information for the staff involved in the project will be referred to the *number of the key personnel, years of experience, license of the appropriate category*.
- Major items of Contractor’s Equipment proposed for carrying out the Works will be _____ (*insert number, description of equipment or machineries*).
- Value of the contract of _____ (*type of work*) performed during the last three years is _____ (*insert value in figures and words*), certified by _____ (*insert name of the client*)

d-BID FORM

The bidder shall fill in and submit this Bid form with the bid.

_____ (date)

To: _____
(name of the procuring entity)

Address _____
(full address of the procuring entity)

We offer to execute the _____ (name and identification number of the contract) in accordance with the conditions of contract accompanying this bid for the contract price of _____ (amount in numbers and words) _____ (name of currency).

The bid and the written acceptance of it shall constitute a binding contract between us. We understand that you are not bound to accept the lowest or any Bid you receive.

We hereby confirm that this bid complies with the bid validity required by the bidding documents.

Authorised signature:

Name and title of signatory:

Name of bidder:

Address:

e - CONTRACT DATA

This form should be filled in by the Procuring Entity prior to issuance of the bidding documents. Schedules and reports to be provided by the Procuring Entity should be annexed.

1. The Procuring Entity is:
Name _____
Address _____
Authorised representative _____
2. Name of the Contract _____
3. Brief description of the works _____

4. The Start Date shall be _____
5. The Intended Completion Date of the Works shall be _____
6. This contract shall be a “*Unit Price Contract based on Priced Bill of Quantities / Lump Sum Contract based on priced Activity Schedule*”.
7. The language of the contract shall be _____
8. The governing law of the contract will be the Albanian law.
9. The tender documents for part of this contract.
10. The minimum insurance covers shall be:
 - a) insurance for materials’ loss and site damages;
 - b) insurance for the equipment’s’ loss or damages;
 - c) insurance for personal injury or death.

The amount of insurance shall be defined by the Albanian law.
11. The Site shall be available on _____ (*insert date*).
12. The amount to be paid for the delay of the works completion shall be _____ % of the final contract price per each day of delay, but not exceeding 25% of the contract price.
13. The advance payment is _____ (*in figures and words*).

14. The amount of retention money will be _____ % of each payment certificate.
15. The percentage to apply to the value of the work not completed , representing the Procuring Entity’s additional cost for completing the Works, is _____.
16. The Defects Liability Period shall be ____ months after the completion of the works.
17. The retention for liquidated damages will be 5 % of the contract price and it will be deducted proportionally from each payment certificate.
18. The amount to be withheld for compensation events will be 0.01 % of the late submission for each day of delay.
19. The place of arbitration is _____.

e - CONTRACT DATA

This form should be filled in by the Procuring Entity prior to issuance of the bidding documents. Schedules and reports to be provided by the Procuring Entity should be annexed.

1. The Procuring Entity is:
Name _____
Address _____
Authorised representative _____
2. Name of the Contract _____
3. Brief description of the works _____

4. The Start Date shall be _____
5. The Intended Completion Date of the Works shall be _____
6. This contract shall be a “*Unit Price Contract based on Priced Bill of Quantities / Lump Sum Contract based on priced Activity Schedule*”.
7. The language of the contract shall be _____
8. The governing law of the contract will be the Albanian law.
9. The tender documents for part of this contract.
10. The minimum insurance covers shall be:
 - a) insurance for materials’ loss and site damages;
 - b) insurance for the equipment’s’ loss or damages;
 - c) insurance for personal injury or death.

The amount of insurance shall be defined by the Albanian law.
11. The Site shall be available on _____ (*insert date*).
12. The amount to be paid for the delay of the works completion shall be _____ % of the final contract price per each day of delay, but not exceeding 25% of the contract price.
13. The advance payment is _____ (*in figures and words*).

14. The amount of retention money will be _____ % of each payment certificate.
15. The percentage to apply to the value of the work not completed , representing the Procuring Entity’s additional cost for completing the Works, is _____.
16. The Defects Liability Period shall be ____ months after the completion of the works.
17. The retention for liquidated damages will be 5 % of the contract price and it will be deducted proportionally from each payment certificate.
18. The amount to be withheld for compensation events will be 0.01 % of the late submission for each day of delay.
19. The place of arbitration is _____.

f - SCHEDULE OF REQUIREMENTS

- 1. Registration document of the Company**
- 2. License to exercise the activity under the contract**
- 3. Financial sources (if required)**
- 4. Evidence that the Company is not in liquidation or bankruptcy**
- 5. Evidence that no penal prosecution or trial is in process for activities under the contract**
- 6. Evidence of fulfilment of fiscal obligations**
- 7. Evidence of fulfilment of social security obligations**
- 8. Bid security form**

The following qualification information will be incorporated in the Bid Data Sheet for procurement of works:

- Qualification and experience of key personnel proposed for administration and execution of the Contract.
- List and source of Contractor's machineries and equipment.
- Work performed as prime contractor on works of a similar nature over the last 3 years with an estimated value of 50% of the work to be procured.

For the procurement of consultancy services the following qualification information will be incorporated in Bid Data Sheet:

- Qualification and experience of key personnel proposed for administration and execution of the Contract (Curriculum Vitae)
- Professional experience in services of a similar nature performed by the key personnel or by the company with an estimated value of 50% of the service to be procured.

All the above documents shall be original or legalised copies. Documents shall have been released by competent authorities earlier than 3 months from the bid opening date. Failure to present any of the above documents, incomplete or false declarations give the right to the Purchaser to reject the bid as unresponsive. The Purchaser, at its discretion, reserves the right to require additional documents or information to the Bidders.

g - BID SECURITY FORM
(BANK GUARANTEE)

We _____ (*name of the bank*) certify by the present that
_____ (*name of bidder*) has deposited at
_____ (*name and address of the bank*) the amount
_____ (*in figures and words,*) as security of the bid
presented in the tender _____ (*name of contract*).

We undertake to pay _____ (*name of procuring entity*) this amount of the
bank guarantee in the following conditions:

- (1) if the bidder withdraws his bid during the period of bid validity;
- (2) if the bidder, having been notified of the acceptance of his bid, refuses to accept the award of the contract;
- (3) if the bidder refuses to furnish the performance security;

upon receipt of procuring entity's written demand, without having to substantiate his demand, provided that the amount claimed by the procuring entity is due to him owing to the occurrence of one of the three abovementioned conditions.

This guarantee will remain in force up to and including the date 30 days after the expiration of the bid validity period.

(*Signature and seal of the bank*)

h - TECHNICAL SPECIFICSTIONS AND EVALUATION CRITERIA

i - DRAWINGS AND BILL OF QUANTITIES

j - TIME OF COMPLETION

REPUBLIC OF ALBANIA

(Name of Purchaser)
PROT. ___ NO.

Date _____

NOTIFICATION OF AWARD

The (name of Procuring Entity) notifies (name and address of the selected bidder) that the Bid presented in _____ (date) for execution of (name of the Contract) for the total sum of _____ (amount in figures and words) (corrected and modified according to Bid Data Sheet) is accepted.

The Bidder (name) is asked to present to _____ (name and address of Procuring Entity) within _____ (date) the Contract Form properly signed.

If you withdraw from signing, please notify within the above date.

(The Procuring Entity)

(name, signature and seal)

CONTRACT FORM

This agreement, made the _____ date _____ 199_, between _____ and _____

(name and address of the procuring entity)

_____ of the other part.

(name and address of the contractor)

Whereas the procuring entity is desirous that the contractor execute

(name and identification number of the contract)

for the amount _____

(contract price in figures and words)

in _____ *(currency)* and the procuring entity has accepted the bid by the contractor for the execution and completion of such works and the remedying of any defects therein.

The parties agree as follows:

1. In this contract form, words and expressions shall have the same meanings as are respectively assigned to them in the conditions of contract, hereinafter referred to, and they shall be deemed as a part of this contract form.
2. In considerations of the payments to be made by the procuring entity to the contractor, the contractor hereby covenants the procuring entity to execute and complete the works and remedy any defects therein in conformity in all respects with the provisions of the contract.
3. The procuring entity hereby covenants to pay the contractor in consideration of the execution of the works and the remedying of defects wherein the contract price at the times and in the manner prescribed by the contract.

In witness whereof the parties thereto have caused this agreement to be executed the day and the year first before written.

Binding signature of procuring entity _____ *(seal)*

Biding signature of contractor _____ *(seal)*

PERFORMANCE SECURITY FORM
(Bank Guarantee)

No. _____ Ref. _____ (Date)

To: _____
(Name and address of procuring entity)

Whereas _____ (name of contractor) undertakes, in pursuance of the contract nr.____, to execute the works of _____ (name of contract and brief description of the works);

Whereas in the said contract is required a bank guarantee for the sum specified therein as security for compliance with his obligations in accordance with the contract;

Whereas _____ (name and address of the bank) has agreed to issue this guarantee;

We hereby affirm that we are the guarantor of this contract up to a total of _____ (amount of guarantee in figures and words), such sum being payable according to the manner and the currency as prescribed in the contract. We undertake to pay you, upon your first written demand and without your needing to give the reasons of your demand, any sum within the limits of _____ (amount of guarantee).

We hereby waive the necessity of your demanding the said debt from the contractor before presenting us with the demand.

We further agree that no addition or change of the terms of the contract which may be made between you and the contractor, shall release us from any liability under this guarantee.

This guarantee shall be valid until a date 30 days form the date of issue of the taking over certificate .

_____ (signature and seal of the guarantor)

Name and address of the bank
Date



**REPUBLIC OF ALBANIA
DURRES MUNICIPALITY**

SOME THOUGHTS ON THE PUBLIC PROCUREMENT LAW NR. 7971

Setting up of the limit fund at the Procurement Order, as the main evaluation criteria, is critically damaging the value of the tendered object, and consequently the quality of works.

We think that operations should not be based on the limit value, but they need to follow the practice of the Albanian Development Fund (FSHZH), or otherwise there is a need to review the Decision on the Council of Ministers nr. 467 date _____.

For example, in the tender organized for the reconstruction of the road Dalip Peza, with a limit value of Leke 57,000,000, the lowest offer, classified as the first one, was Leke 41,000,000.

In addition, we think that there is a conflict between the Article 24 of the Law nr.7971, and the Guideline nr. 1, date 01.01.1996 at point 1, in terms of interpretation of the timing as a criteria for evaluation.

We think that the article 19 of the direct procurement should allow more space for handling of funds, this in particular related to the emergency cases when the local government faces with difficulties while using a restricted limited fund.

One of the emergency cases was related to water pollution. Based on an accelerated procedure, the Council of Municipality has approved a fund of Leke 2.000.000. But the local government does not have the competence to apply the direct procurement procedure, as such it has to get the approval from the PPA in order to apply it. Without saying that PPA has prolonged the procedure, we should mention that there was a need to fill out so many documents, as the time required was equal to that of a limited tender procedure.



REPUBLIC OF ALBANIA

Durres Port

The origin of production is the best supplier for goods and equipment

Durres Port Authority faces a lot of difficulties purchasing spare parts for the Check and Hungarian electro cranes that are used in the Port. Therefore, port's specialists should be able to purchase spare parts at the place of origin. Durres Port is supplied with machineries and equipment from western countries, The value of such machinery and equipment spare parts is much higher than the limit fund for direct procurement. Considering this, we propose that the Port Authority should have the competence to implement direct procurement

THE GENERAL DIRECTORATE OF ROADS

In the current practices applied on public procurement by the GRD, there are some uncertainties and discordances between the policies that this directorate would like to implement and the guidelines of the Ministry of Transport and Telecommunications as well as the Procurement Law. These policies consist in the increase of work efficiency to have more guarantees that the winner of tender will have the professional capacity, seriousness, and could fulfill all other requests set forth by the law, in order to complete on time and according to required quality for all objects of road infrastructure. Example:

In a tender procedure, the commission after had completed the respective procedure according to article 31, of Law no. 7971, date 26.07.1995, “On Public Procurement”, and has requested additional documents and information according to article 12, point 2 and point 6 of this law, has cancelled the procurement procedure due to irregularities noticed, as well as unreliable information provided in the project that would create obstacles in project’s implementation, as the value of additional works that will be required (after they were confirmed in writing by the project formulators-designers) would create a cost increase above the reserve fund foreseen. That’s way there should be provided more legal space and more competences to the procurement entity by having a better coordination of work with the public procurement agency, in order to increase the work standard for road construction.

In the article 12, point 5 of the Law 7971, date 26.07.1995, “On Public Procurement” needs to be added “the disqualification should extend its effects even when the candidate’s previous job reflects a low quality (in implementing its contracts with the procurement entity) for objects that are not taken over due to low quality, or when the contracts are interrupted, or some of the contractual obligations are not fulfilled. We have faced such cases in the procurement procedures that are developed by GRD. After the candidate fulfills all criteria set forth by the Procurement Entity, it can participate in the bidding process, even though it goes through the above mentioned phenomena

GENERAL DIRECTORY OF RAILROAD A.A. DURRES

On some problems related to the implementation of public procurement rules.

We propose that some changes need to be done in regard to the implementation of the Law No. 79 71, date 26.07.1995, on Public Procurement and Law and its sub legal acts. In regard to the railway transport means, Auto matrix, Wagons and other railway's specific materials, it is necessary that their purchase will be realized through the inspection with the railways of other countries we have agreements.

This proposal comes as a result of the experience that the Albanian railway has on the non-accomplishment of international tendering procedures.

General Directory of Railroads A.A.

Durres

GENERAL DIRECTORY OF RAILROADS A.A. DURRES

On some problems related to the implementation of public procurement rules.

We think that there is a need for some changes at the Public Procurement law, as well as in the sub legal acts regarding to their implementation. Such proposed changes are as in the following:

A) The Public Procurement Law

1. At the Article 7, point 5, needs to be added the following:

Point 5. The procurement Entity does not apply any order given by any superior institution beside those defined in this law.

This because every year we have orders from the Ministry that do not comply with this law or its sub legal acts.

It is required that for 2002 the bidder should have accomplished documented works which is 50% of the value procured each year for the last three years.

Considering the railway sector specifications, it is not always possible to accomplish through a national tender the 50% of the three last years value.

The procurement entity should have the competence to substitute with another request through which they can be convinced that the bidders are technically capable to accomplish their work.

At the article 19, after letter (d) of the point "i", need to be added the points as follows:

d/1. in the case of purchasing railway transportation means, when a change of supplier will effect the technology, even if the first purchasing cost is the base for the international tender.

d/2. In the cases of purchasing specific railway materials. This only through actions with similar subjects.

III. At the article 15, should be added:

5 – The procurement entity should calculate the minimal value, under which the object cannot be accomplished according to the technical specifications requirement. As well needs to be calculated an orientation value according to the market prices.

6 – The offers, which are above the procurement orientation value, and under the calculated minimal value, should be excluded.



MINISTRY OF ECONOMY
CASE STUDY TO BE PRESENTED AT THE PUBLIC PROCUREMENT WORKSHOP
2-3 JULY 2002.

We would like to present the application of direct procurement method, as usually it is difficult for us to deal with it.

Our difficulty is related to judging of the cases that have been considered by the author of law to be applied, not to say that in some cases we think that they are used to “cover” the lack of planning and on time state funds disbursement.

The following is the case:

The Association of Producers and Traders of Bread has presented to the Ministry of Economy (The Directorate of Competition and Consumers Protection) a claim related to the Decision of the Council of Ministers Nr. 141, date 19.04.2002, «For use by some Tirana institutions and state entities of the procedures of Direct Procurement, on Bread Supply by “BUKA TIRANA” Anonymous Association.

Based on the point 1 of this decision, the institutions and state entities under the responsibility of the Ministry of Defense, Ministry of Public Order, Ministry of Justice, Ministry of Education and Science, and Ministry of Local Government and Decentralization (that operate in Tirana), are allowed to use the Direct Procurement Procedure, for bread supply only from the trade association “Buka Tirana” A.A.

This practice (used during the last four years), which defines the use of limit funds according to the state budget approved for 2002, is supported by the fact that only the “Buka Tirana” trade association A.A. is able to guarantee:

Periodical supplying with bread in every situation;
Product’s quality;
Market price stability.

(We propose that together with the audience to discuss about this case and other similar ones.)

Assessing the problem set forth by the association of bread producers and traders, and after discussions with the Directorate of Property Supervision in the Ministry of Economy the Department of «BUKA TIRANA» A.A. and the head of the association of bread producers and traders, we would stress that :

The Activity of Bread Production and Trading is liberalized since 1992. At Tirana market there are 300 private units of bread production and an share holding “BUKA TIRANA”, with 51% state capital. In this case we can say that we have to deal with an open market, which has to function based on the principals of free competition. The Private companies of bread production and trade do not have problems to supply periodically and with a high quality, which can be verified even with the supplying they provide to the outside Tirana state entities which are under the responsibility of respective Ministries (i.e. air and maritime forces).

Implementation of the direct procurement practice avoids free competition, placing the bread production and trade units in the market unequal and discriminatory conditions. This is in discordance not only with Law nr. 8044, date 7.12.1995 “*On Competition*”, but also with Law 7971, date 26.7.1995 “*On Public Procurement*”. According to the Public Procurement Law, ***the Council of Ministers can allow the use of a procurement procedure, except the open tender, only in special cases or force major. Also, this law prohibits the use of direct procurement in order to avoid competition in the market.***

In order to avoid the arbitrariness, setting up a transparent and competitive environment, we would ***suggest that such decisions should be proceeded by detailed economic and financial analysis in order to have a real assessment of their effect in the market,*** without avoiding their discussion at our Department.

In addition, we think that it is necessary to discuss such acts at the Consultative Council of Business, in order that business will present its suggestions before such acts become in power.



REPUBLIC OF ALBANIA

MINISTRY OF TERRITORIAL ADJUSTMENT AND TOURISM

Aiming to discuss and provide proposals for solutions, in the following are presented some cases that require attention for improvement of the legal procedures for public procurement.

At the article 2 of the existing law, it is defined that in the “Limited Tender” and “Request for Quotation” should participate only the subjects defined by the procurement entity, without permitting other subjects that express their interest and are not invited by the procurement entity. At the Council of Ministers Decision nr.335, it is defined the obligation for publication of the “invitation for bidding” at the public procurement bulletin for all tenders, except the direct tender.

In our opinion, it is necessary to eliminate *the procurement forms “Limited Tender”, “Request for Quotation”, “Request for Proposal”* allowing only the “Open Tender” and the direct tender at the monetary limits defined by the public procurement rules in order to avoid the compromise of procurement procedures at the existing forms of procurement.

The requests for qualification should be defined one by one in the law, not allowing those to become a competence of the procurement entity, in order to avoid the subjective judgment of the procurement entities in such cases.

In addition, needs to be defined the obligation of institutions that provide their documentation for the qualification of candidates, which should provide the official data any time required by the procurement entity. The procurement entity has the right to verify the documentation presented by the subjects in the tender.

The legal administration documentation (qualification documentation) for *international tenders* should be more specified and clear enough to pass the qualification phase, by not leaving it only with the declaration of the competing subject.

The competence to exclude a subject in case it submits a fake document, should not remain only with the PPA, but with the procurement entity as well for tenders organized by the entity. This will equip the procurement entity with an operative way of operation, increase its responsibility and a direct competence for them to penalize the subjects that break the law. This because there are cases when subjects that have broken the law, might participate in tenders and win them, while the PPA analysis the proposal to remove the right of participation.

At the article 13, point 1, the procurement entity has the competence to apply or not the *pre-qualification* procedure. This procedure is considered as a necessary one in case of big and complex works. Those works considered big and complex, should be classified as such by the law.

At the article 17, point 3, it is specified that the Council of Ministers can allow the use of procurement procedure, except the open tender at the *foreseen situations* by articles 18, 19, 20, 21 and 22. This competence of the Council of Ministers will be for the *unforeseen cases* by these articles, because for the foreseen cases this competence is provided at the point 2 of this article.

At the article 17, point 5 the procurement entity has the competence on the objects, which have big volume of works and their construction requires more than 1 calendar year, to realize the procurement based on the full value of the object. These works should have a classification criteria as such.

The procurement with full value must be for all objects, regardless of construction volume and time, as in the contrary the funds will be split right at the beginning of the programming, consequently into the elimination of the open tender, lack of efficiency, and a low level of responsibility and low quality.

Under the article 25, point 1 it is defined that “The invitation for bidding” is published into two national newspapers with the largest print run, but needs to be defined as well the *frequency of publication* of the invitation in the newspaper.

According to the fund’s size, and the object complexity, need to be revised *the proclamation* and *preparation date* for the bid, in order that the procurement entity and the bidders will have enough time to prepare the documentation.

Receiving of the invitation for bid to be published at the public procurement bulletin, should be confirmed by PPA, as it happens that the invitation is sent to the PPA, but does not reach the PPA. There are cases that the invitation is sent to the PPA with a delay, consequently not published at the bulletin, or it is published close to the tender date.

The standard tender documents such as Procurement Order, Summary report, Evaluation report, commission’s reports, procedures approval act, are not approved but, are formulated in different ways by different procurement entities.

The law should define cases when the tender is postponed, when it is repeated, as well as how the procurement entity is going to proceed in such cases.

The cases presented by other colleges will provide a full picture of such issues.

Thank you for well understanding

Amila Bajraktari

Tonin Frroku

Specialists at the Ministry of Territorial Adjustment and Tourism

PPA FUNCTION REGARDING THE IMPLEMENTATION OF THE PUBLIC PROCUREMENT LAW.

EXAMPLE FROM THE MOTT PRACTICES.

The Procurement Entity “X” during 2001, had US\$110,000 available from the state budget, in order “to improve the infrastructure” at one of the Albanian Ports.

The procurement entity announced the competition and organized the tender in April 2001. Eight bidders participated, and the winner was bidder A, that offered US\$ 78, 000.

Based on the procurement law and sub legal acts, as well as on the guidelines of the MTT on “The budgeted investments of 2001”, bidder A submitted the necessary documentation for the approval of the procurement procedure.

The MTT examined the submitted documents, identifying that there were irregularities in the public procurement law implementation, both in the preparation of tender documents, as well as in some of the documents presented by bidders, including bidder A (**irregularities were not related to the technical specifications or the way how the limited fund of US\$ 110,00 was calculated, but the irregularities were related to the legal documents**). Consequently, the MTT did not approve the procurement procedure, and the Procurement Entity was **ordered to repeat the competition**.

The Procurement Entity repeated the competition and on July 2001 organized the tender with the same object and the same fund, where took part 3 bidders and, the winner was still bidder A, but this time with a price of US\$ 109,000.

The procurement entity resubmitted for approval the respective documents with irregularities reflected. The MTT did not approve again the procurement procedure.

The real reason of disapproval was that the MTT **did not find reasonable to approve an offer of US\$ 31,000 higher, for the same object, limited fund, and the same bidder**, but this disapproval is not legally based on **public procurement law and its sub legal acts**.

Bidder A complained at the PPA for the decision taken by the MTT. The PPA **canceled the decision of the MTT, and ordered it to continue the procurement procedures opening the fund of US\$ 109,000 for bidder A**.

As a conclusion, we think that this case needs to be discussed in terms of the **relationships between PPA, central institutions, and the state budget interests**.

Agron TYLI



REPUBLIKA E SHQIPERISE
MINISTRIA E TRANSPORTIT DHE TELEKOMUNIKACIONIT

The M.T.T. attached to the annual guideline of investment's budget for 2002, (that is sent to the Procurement Entities under its jurisdiction), has enclosed the request that the Procurement Entities should include in their requests for qualifications, the criteria for the interested bidders to present (through legal documentation) their work experience in similar works with a value of 50% (in each of the last three years (1999, 2000, 2001)), of the total value of object that will be procured.

Through this request the MTT aimed to increase the competition by limiting the participation of small firms, in order to perform not only qualitative works but also to reach the deadline. It is important to mention that this request did not have any legal basis at the Public Procurement Law or its sub legal acts in power, and allowed space for subjective interpretations.

This happened as the Procurement Entity X interpreted this request of the MTT as it gives the right it the MTT to subjectively judge the experience of firms.

In fact, the Procurement Entity, for some of the objects defined the limit of 200% value of works experience similar of the limit funds for the objects that the competition was opened. This qualification criteria was against the legal dispositions in power as well as the Guideline of the MTT according to the Paragraph 1, narrowing the space of participation in the competition, and discriminating the interested ones.

The approval of the procurement procedure for objects with the request for qualification according to the paragraph 4, based on the legal dispositions in power, was competence of the PPA , which noticing the breaking of the law did not approve the respective procedure, and ordered the repetition of tender and recommended to the MTT to change the respective guideline in support to the Public Procurement Law and its sub legal acts.

As a conclusion we think that this case is an evidence of the important role that PPA plays in respect to the correct implementation of the Albanian Law of Public Procurement.



REPUBLIC OF ALBANIA
MINISTRY OF TRANSPORT AND TELECOMMUNICATION
The National Agency of Air Traffic

The technical service contracts and purchase of spare parts, (that are unique due to specifications of our enterprise and the nature of such goods), needs to be realized through firms that have provide the goods). In fact we have face difficulties to get the approval for direct procurement procedure by the PPA. Such difficulties are faced with Systems of SIEMENS, meteorological equipments, secondary radar's equipment with Alenia Marcone firm, the system of aeronautical transmission.

ANTA faces difficulties related to the approval of procedures by the Central Organs, as the approval takes unlimited time. Typical for such case id the purchase of the Transponder as well as the technical assistance support by Alenia Marconi firm for the radar system MSSR, as well as the construction of the new offices for ANTA.



**REPUBLIC OF ALBANIA
PUBLIC PROCUREMENT AGENCY**

CASE 1: LIMITED TENDER WITH TWO CANDIDATES

In a “Limited Tender” procedure, 5 candidates have bought the tender documents. During the first phase of assessing the legal documents, 3 candidates were disqualified as they could not comply with the qualification requirements set forth by the procurement entity. So, there were left only two bidders in the competition. Should this Procurement procedure continue with the only two left candidates?

CASE 2: OPEN TENDER WITH ONE CANDIDATE

In an “Open Tender” procedure, 4 candidates have bought the tender documents. During the first phase of assessing the legal documents, one of the candidates was disqualified, as could not comply with the qualification requirements set forth by the procurement entity. There were left only 3 candidates. During the second phase (opening of the offers), two of the candidates did not fulfill the technical specifications required by the procurement entity. So, these two candidates were disqualified, and it was left only one candidate in the competition. Should the procurement procedure continue with the only one candidate?

CASE 3: COMPETITION BETWEEN SMALL BUSINESS AND BIG BUSINESS

In a procurement procedure are presented 3 candidates, two of which belong to small businesses. During the first phase, the three candidates were qualified. How can we make compatible the offers presented by the two candidates of small businesses, with that presented by the big business, during the second phase?

CASE 4: JOINT-VENTURE CONDITIONS FOR QUALIFICATIONS

In a tender procedure, one of the candidates is presented in a Joint Venture activity with another firm. What kind of conditions should this Joint Venture comply with in order to be qualified in this procurement procedure?



**REPUBLIC OF ALBANIA
GENERAL DIRECTORATE OF WATER AND SEWERAGE**

Construction of Water Supply station in Fushe Magjat, Kucove

Procurement Form: Open Tender.

The Procurement Entity conforms all rules of public procurement defined in the Law No. 7971, date 26.05.1995, “*On the Public Procurement*”, and it has organized the tender on “*Construction of Water Supply Station Fushe Magjat, Kucove*”. The competing firms could not qualify when the tender legal documents were open. Considering this, and based on the Guideline No. 1, date 1.1.1996, Chapter VII, “*Repeating the Tender*”, the procurement commission cancelled the tender procedure.

The tender was open for a second time. Due to a mistake done by the Procurement Entity, in some of the tender documents the water supply system was required with two water stores, and in some other documents with only one water store. So, when the tender was open, one of the competitors has presented its project with only one water store, while others did it with two water stores. The commission decided to ask the firm that has resented the offer with one store, to double the price of it. This competing subject did not accept the offer, as they could build two stores with a cost lower than the double price of one store. This way the commission decided to cancel the tender.

The firm made a claim at the Public Procurement Agency, which in return confirm the deadlines defined in the procurement law, and cancelled the procedures of this tender. The Procurement Entity prepared the file of documents and sent it for further assessments to the PPA. The PPA requested to re evaluate the refused offers, placing bidders in the same base of competition. The commission implemented the decision of PPA and re evaluated the offers adding to the firm competing for one store the value of a second one. After this mathematical corrections were done, the firms were classified according to the results of such calculations.

VJERO FIRM SHPK

PROCUREMENT PROBLEMS

The first case is when the winner is an association that provides the lowest value.

The second case is when the winner is an association that provides the shortest time schedule.

The third case is when the new associations are not qualified.(That realize works for the first time)

The working group that has formulated the tender documents has defined a value and a time schedule to complete the work. The associations that provide values under the defined cost should be disqualified. In a normal situation the associations have to make profits, while in case of economic crises the association can low the prices , but not to work under the cost, so with losses.

The breaking of the nominal deadlines creates problems with production technology (i.e. Concretes needs a certain time to reach the point of resistance etc.) Or there is an order of works that needs to be followed in order to allow other processes to take place. The breaking of the works technology might have other consequences in the construction.

The new associations will start to make progress one day, as well as others will extend their activity. At an active market, or in other words a profitable market, capitals will be invested. I.E. in the construction sector, there were established construction enterprises by engineers at the beginning of '90s, but after '97, in this sector there were invested capitals even by different trade associations.

GROUP 1
Day 1

General Directorate of Railroads
Purchase of specific equipment and materials

The Procurement Entity of the General Directorate of Railways (GDR) proposes that the purchase of specific materials and equipment should be done based on direct connections with railways of other countries and a direct inspection of such materials and equipment. The Albanian Railway (AR) authorities contacted railway authorities of various countries i.e. Germany, Check, Hungry, and Italy, and decided that the Italian railway offers the most suitable technology and the best price.

As the “Direct Procurement” is not allowed for such railway specific materials and equipment, the Albanian Railway addressed the problem to the Ministry of Transport and Telecommunication (MTT). Based on the document No. 1430, date 11.06.2002, the MTT sent to GDR the Decision of the Council of Ministers No.235, date 01.06.2002 that allows the use of “Direct Procurement” procedure to purchase transportation means. This way the GDR was allowed to use the direct procurement procedure using a of 65,000,000 Leke, in order to purchase the transportation means through “TRENITALIA”.

Findings and Recommendations

- Provision of detailed Technical Specifications for this specific sector might favor the monopoly position of one or two subjects.
- The monopoly position of competing subjects needs to be verified by the procurement entities.
- In order to solve the procurement problems in this sector, the direct procurement procedure should be allowed for amounts up to one million Leke. Such cases of direct procurement need to be approved by the Railway Supervisory Council.
- It is proposed that for specific conditions of this sector, the direct procurement should be authorized for certain limit values i.e. up to the existing limit for the governmental services (600,000 Leke per year).
- The above-mentioned approvals for direct procurement are needed to minimize the risk of abuses.

Durres Port	
The origin of production is the best supplier for goods and equipment	
<p>Durres Port Authority faces a lot of difficulties purchasing spare parts for the Check and Hungarian electro cranes that are used in the Port. Therefore, port’s specialists should be able to purchase spear parts at the place of origin. Durres Port is supplied with machineries and</p>	<p>equipment from western countries, The value of such machinery and equipment spare parts is much higher than the limit fund for direct procurement. Considering this, we propose that the Port Authority should have the competence to implement direct procurement, at any cost.</p>

Findings and Recommendations

- There is a risk of abuse associated with the direct procurement in the case of specific sectors as Port.
- There is a risk of financial damage if spare parts, goods, or equipment are not purchased from the original manufacturer.
- Decisions should be based on the balance between the risk from financial damage and the risk from abuse.

<p>Ministry of Economy Direct Procurement of bread from “BUKA TIRANA”</p>
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<p>The Association of Producers and Traders of Bread has presented to the Ministry of Economy (The Directorate of Competition and Consumers Protection) a claim related to the Decision of the Council of Ministers No. 141, date 19.04.2002, «On the use by some Tirana institutions and state entities Direct Procurement procedures on Bread Supply by “BUKA TIRANA” Anonymous Association.</p> <p>Based on point one of this decision, the institutions and state entities under the responsibility of the Ministry of Defense, Ministry of Public Order, Ministry of Justice, Ministry of Education and Science, and Ministry of Local Government and Decentralization (operating in Tirana), are allowed to use the Direct Procurement Procedure, for bread supply, only from the trade association “Buka Tirana” A.A.</p> <p>This practice (used during the last four years), which defines the use of limited funds according to the state budget approved for 2002, is supported by the fact that only “Buka Tirana” trade association A.A. is able to guarantee:</p> <ul style="list-style-type: none"> • Periodical supply in every situation; • Product’s quality; • Market price stability. <p>Based on discussions with the Directorate of Property Supervision in the Ministry of Economy, the Department of «BUKA TIRANA »A.A., and the head of bread producers and traders association, we noticed that :</p> <p>1. <i>The Activity of Bread Production and Trading has been liberalized</i> since 1992. In Tirana markets there are about 300 private entities involved in bread production as well</p>	<p>as a share holding company “BUKA TIRANA”, with 51% state capital. The bread production business operates in a free and open market. The private companies engaged in bread production and trade can provide a periodical supply with high quality, which can be verified with the supplying they provide outside Tirana to the state entities under the responsibility of respective Ministries (i.e. air and maritime forces).</p> <p>2. Use of the direct procurement precludes free competition. This case places the bread production companies in the unequal and discriminatory market conditions. This is in contrary not only with Law 8044, “<i>On Competition</i>” dated 7.12.1995, but also with Law 7971, “<i>On Public Procurement</i>” dated 26.7.1995. According to the Public Procurement Law, <i>the Council of Ministers can allow the use of a procurement procedure, except the open tender, only in special cases or force major. Also, law 7971 prohibits the use of direct procurement when intended to avoid competition.</i></p> <p>In order to operate in a transparent and competitive environment, we would <i>suggest that such decisions should be proceeded by detailed economic and financial analysis in order to have a real assessment of their effect in the market.</i></p> <p>In addition, such acts should be discussed at the Consultative Council of Business level, so that business will present their suggestions before such acts become in effect. We suggest the use of normal procurement procedures.</p>
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Findings and Recommendations

- There are about 300 businesses dealing with bread supply in Tirana.
- In order to have a transparent environment for the business, decisions to use direct procurement need to be preceded by detailed economic and financial analysis, and the assessment of their effect in the market.

Durres Municipality Emergency situation in the case of water pollution	
<p>There was an emergency case related to water pollution in the Municipality of Durres. Using an accelerated procedure, the Municipal Council allocated 2. 000.000 Leke to be used as direct procurement for taking care of the emergency. It should be noted that local governments do not have the deciding authority to apply direct procurement, first, they must obtain PPA approval.</p>	<p>Without saying that PPA has prolonged the procedure, it should be mentioned that there were so many documents to be filled out, that the time required to prepare them was equivalent to the time required to conduct a limited tender procedure.</p>

Findings and Recommendations

- For emergency cases, the decentralization of decisions should give the right to the City Mayor to decide when to use direct procurement.
- The Local Council (for procurements with its own funds) should have the same competence as the Council of Ministers for direct procurement.

Ministry of Territorial Adjustment and Tourism Opinion on "Open Tender" procedures	
<p>In our opinion, it is necessary to eliminate the procurement forms</p>	<p>public procurement rules, in order to avoid the compromise of</p>

“Limited Tender”, “Request for Quotation”, Request for Offers”, allowing only the “ <i>Open Tender</i> ” and the “Direct Tender” with a limit fund defined by the	procurement procedures.
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Findings and Recommendations

- Article 36, paragraph. ”b”, addresses the conflict mentioned in this case. There are considered only the offers of firms that show an interest to compete; after they are either invited to compete or announced through the Bulletin of PPA.

Ministry of Territorial Adjustment and Tourism Requests for qualifications	
In order to avoid the subjective judgments of the procurement entities, <i>the requests for qualification</i> should all be defined in the law. This way,	the requests for qualification should not become a competence of the procurement entity.

Findings and Recommendations

- The Law should define the necessary minimal requirements for qualification; while the Procurement Entity should determine other specific requirements according to the case. The word "may" should be replaced by the word "must".

Ministry of Territorial Adjustment and Tourism Institutions' Obligations to provide information	
<i>It is important to define the provision of documentation for qualification of candidates, as an institutional obligation. Institutions should provide the official data any time required by the procurement entity. The</i>	procurement entity has the right to verify the entire documentation presented by subjects in the tender.

Findings and Recommendations

- There is a need to define the deadline for answering the request of the procurement entity to examine and assess the accuracy of documentation presented by competitors.
- Institutions should provide documentation.
- The procurement entities have the right to verify the documents.

Ministry of Territorial Adjustment and Tourism Repeating and Postponing a tender

The law should define cases when the tender is postponed, when it is	repeated, as well as how the procurement entity will proceed in such cases.
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Findings and Recommendations

- This case is resolved through the Decision of the Council of Ministers, date 24.05.2002

”VJERO” Firm The Winner provides the minimal value	
The working group X that has formulated the tender documents has defined a value and a time schedule to complete the work. Firms that	provide values under the defined cost should be disqualified. No firms/companies can work under the cost.

Findings and Recommendations

- In addition to the evaluation for the lowest value, the assessment considers as well the best economical offer. A criteria to define the best economical offer needs to be assessed with minimal and maximal points.
- *Proposed criteria for evaluating the best economic offer.*
 1. The Price
 2. The deadline.
 3. Work warranty. The contractor should take care of repairing the defects.
 4. Maintenance cost, affectivity and utilization

”VJERO” Firm New firms are not qualified	
New firms have been established and are operating in the construction sector. They are mainly managed by construction engineers, and are trying to find ways for an effective investing.	The procurement law excludes those firms that have performed less than 50% of the value of tendered works for the last three years. How the new firms can be competitive in the market?

Findings and Recommendations

- The new firms should work beside the old ones till they gain the necessary experience.
- The Albanian Law allows the establishment of Joint Ventures and Contractual Relationships

**Public Procurement Agency (PPA)
Limited Tender with two candidates**

In a “Limited Tender” procedure, 5 candidates have bought the tender documents. During the first phase of assessing the legal documents, 3 candidates were disqualified as they could not comply with the

qualification requirements set forth by the procurement entity. So, there were left only two bidders in the competition. Should this Procurement procedure continue with the only two left candidates?

Findings and Recommendations

- According to the Law 8767, it is the competence of PPA to decide if the limited tender will continue with only two candidates

Public Procurement Agency (PPA) Open Tender with one candidate	
<p>In an “Open Tender” procedure, 4 candidates have bought the tender documents. During the first phase of assessing the legal documents, one of the candidates was disqualified, as could not comply with the qualification requirements set forth by the procurement entity. There were left only 3 candidates. During the second phase (opening of the offers),</p>	<p>two of the candidates did not fulfill the technical specifications required by the procurement entity. So, these two candidates were disqualified, and it was left only one candidate in the competition. Should the procurement procedure continue with the only one candidate?</p>

Findings and Recommendations

- In this case the tender is cancelled, as the offer that does not comply with the technical specifications is not taken into consideration.
- The tender should be repeated.

Public Procurement Agency (PPA) Competition between small business and big business	
<p>In a procurement procedure are presented 3 candidates, two of which belong to small businesses. During the first phase, the three candidates were qualified. How can we make compatible the offers presented by the</p>	<p>two candidates of small businesses, with that presented by the big business, during the second phase?</p>

Findings and Recommendations

- The large business is classified with a turnover of 8 million leke per year, if the value of the contract that is procured together with the realized turnover by the subject that is verified in the tax office, extends this limit, than it is assessed with VAT.

**Public Procurement Agency (PPA)
Joint Venture-conditions for qualifications**

<p>In a tender procedure, one of the candidates is presented in a Joint Venture activity with another firm. What kind of conditions should this</p>	<p>Joint Venture comply with in order to be qualified in this procurement procedure?</p>
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Findings and Recommendations

- Both subjects that are cooperating in a Joint Venture should fulfill all the legal requirements for qualifications (Legal Administration).

GROUP 2
Day 1

General Directorate of Railroads Purchase of specific equipment and materials	
<p>The Procurement Entity of the General Directorate of Railways (GDR) proposes that the purchase of specific materials and equipment should be done based on direct connections with railways of other countries and a direct inspection of such materials and equipment. The Albanian Railway (AR) authorities contacted railway authorities of various countries i.e. Germany, Check, Hungry, and Italy, and decided that the Italian railway offers the most suitable technology and the best price.</p>	<p>As the “Direct Procurement” is not allowed for such railway specific materials and equipment, the Albanian Railway addressed the problem to the Ministry of Transport and Telecommunication (MTT). Based on the document No. 1430, date 11.06.2002, the MTT sent to GDR the Decision of the Council of Ministers No.235, date 01.06.2002 that allows the use of “Direct Procurement” procedure to purchase transportation means.</p> <p>This way the GDR was allowed to use the direct procurement procedure using a of 65,000,000 Leke, in order to purchase the transportation means through “TRENITALIA”.</p>

Findings and Recommendations:

- There is a need to prepare legal documentation to respond to the international tenders.
- Any case of goods, and equipment purchase for specific sectors, i. e. railway, ports, etc., need to be approved through the Decision of the Council of Ministers.

Durres Port	
The origin of production is the best supplier for goods and equipment	
<p>Durres Port Authority faces a lot of difficulties purchasing spare parts for the Check and Hungarian electro cranes that are used in the Port. Therefore, port’s specialists should be able to purchase spear parts at the place of origin. Durres Port is supplied with machineries and</p>	<p>equipment from western countries, The value of such machinery and equipment spare parts is much higher than the limit fund for direct procurement. Considering this, we propose that the Port Authority should have the competence to implement direct procurement, at any cost.</p>

Findings and Recommendations

- Technical specifications in this case need to be defined based on the public procurement law, and standard documents that associate with this law.
- The procurement entity needs to provide detailed reports to justify the purchase of goods and equipment at their place of origin.
- When necessary to purchase at the place of origin, qualified specialists must prepare clear and detailed specifications.
- The qualified specialists that prepare such specifications must be supported financially.

Ministry of Economy Direct Procurement of bread from “BUKA TIRANA”	
<p>The Association of Producers and Traders of Bread has presented to the Ministry of Economy (The Directorate of Competition and Consumers Protection) a claim related to the Decision of the Council of Ministers No. 141, date 19.04.2002, «On the use by some Tirana institutions and state entities Direct Procurement procedures on Bread Supply by “BUKA TIRANA” Anonymous Association.</p> <p>Based on point one of this decision, the institutions and state entities under the responsibility of the Ministry of Defense, Ministry of Public Order, Ministry of Justice, Ministry of Education and Science, and Ministry of Local Government and Decentralization (operating in Tirana), are allowed to use the Direct Procurement Procedure, for bread supply, only from the trade association “Buka Tirana” A.A.</p> <p>This practice (used during the last four years), which defines the use of limited funds according to the state budget approved for 2002, is supported by the fact that only “Buka Tirana” trade association A.A. is able to guarantee:</p> <ul style="list-style-type: none"> ▪ Periodical supply in every situation; ▪ Product’s quality; ▪ Market price stability. <p>Based on discussions with the Directorate of Property Supervision in the Ministry of Economy, the Department of «BUKA TIRANA»A.A., and the head of bread producers and traders association, we noticed that :</p> <p><i>1. The Activity of Bread Production and Trading has been liberalized since 1992. In Tirana markets there are about 300 private entities involved in bread production as well</i></p>	<p>as a share holding company “BUKA TIRANA”, with 51% state capital. The bread production business operates in a free and open market. The private companies engaged in bread production and trade can provide a periodical supply with high quality, which can be verified with the supplying they provide outside Tirana to the state entities under the responsibility of respective Ministries (i.e. air and maritime forces).</p> <p><i>2. Use of the direct procurement precludes free competition. This case places the bread production companies in the unequal and discriminatory market conditions. This is in contrary not only with Law 8044, “On Competition” dated 7.12.1995, but also with Law 7971, “On Public Procurement” dated 26.7.1995. According to the Public Procurement Law, the Council of Ministers can allow the use of a procurement procedure, except the open tender, only in special cases or force major. Also, law 7971 prohibits the use of direct procurement when intended to avoid competition.</i></p> <p><i>In order to operate in a transparent and competitive environment, we would suggest that such decisions should be proceeded by detailed economic and financial analysis in order to have a real assessment of their effect in the market.</i></p> <p><i>In addition, such acts should be discussed at the Consultative Council of Business level, so that business will present their suggestions before such acts become in effect.</i></p> <p><i>We suggest the use of normal procurement procedures.</i></p>

Durres Municipality Emergency situation in the case of water pollution	
<p>There was an emergency case related to water pollution in the Municipality of Durres. Using an accelerated procedure, the Municipal Council allocated 2.000.000 Leke to be used as direct procurement for taking care of the emergency. It should be noted that local governments do not have the deciding authority to apply direct procurement, first, they must obtain PPA approval.</p>	<p>Without saying that PPA has prolonged the procedure, it should be mentioned that there were so many documents to be filled out, that the time required to prepare them was equivalent to the time required to conduct a limited tender procedure.</p>

Findings and Recommendations

- The Law for direct procurement needs to be implemented.

Ministry of Territorial Adjustment and Tourism Opinion on "Open Tender" procedures	
In our opinion, it is necessary to eliminate the procurement forms "Limited Tender", "Request for Quotation", Request for Offers", allowing only the " <i>Open Tender</i> " and the "Direct Tender" with a limit fund defined by the	public procurement rules, in order to avoid the compromise of procurement procedures.

Findings and Recommendations

- Need to refer to Article 36, paragraph "b".
- In the procurement procedure are defined, fund of procurement, type of procurement, and terms.

Ministry of Territorial Adjustment and Tourism Requests for qualifications	
In order to avoid the subjective judgments of the procurement entities, <i>the requests for qualification</i> should all be defined in the law. This way,	the requests for qualification should not become a competence of the procurement entity.

Findings and Recommendations

- Requests for qualifications should comply with the procurement law.
- The Procurement Entity must formulate the requests for qualifications.

Ministry of Territorial Adjustment and Tourism Institutions' Obligations to provide information	
<i>It is important to define the provision of documentation for qualification of candidates, as an institutional obligation. Institutions should provide the official data any time required by the procurement entity. The</i>	procurement entity has the right to verify the entire documentation presented by subjects in the tender.

Findings and Recommendations

- Based on the Law, the procurement entity must verify all documents provided by institutions.

Ministry of Territorial Adjustment and Tourism Repeating and Postponing a tender	
The law should define cases when the tender is postponed, when it is	repeated, as well as, how the procurement entity will proceed in such cases.

Findings and Recommendations

- The Decision of the Council of Ministers, date 24.05.2002, takes place on this issue.

”VJERO” Firm	
The Winner provides the minimal value	
The working group X that has formulated the tender documents has defined a value and a time schedule to complete the work. Firms that	provide values under the defined cost should be disqualified. No firms/companies can work under the cost.

Findings and Recommendations

- The procurement fund should be presented at the procurement order, and not at the invitation for bidding.
- The procurement entity should determine the tender documents according to the importance of the object.
- For specific cases, the procurement entity should require price analysis to be presented from bidders.

”VJERO” Firm	
The Winner provides the shortest term	
Breaking of the nominal deadlines creates problems with production technology (i.e. Concretes needs a certain time to reach the point of resistance etc.) There is an order of works that needs to be followed in	order to allow other processes take place. The breaking of the works technology might have other consequences in the construction.

Findings and Recommendations

- It is important to provide a detailed work schedule together with the specifications. The procurement entity must prepare this work schedule in a specific way for each procurement case.
- The procurement entity should provide, as well an analysis of the work schedule.

Public Procurement Agency (PPA) Limited Tender with two candidates	
<p>In a “Limited Tender” procedure, 5 candidates have bought the tender documents. During the first phase of assessing the legal documents, 3 candidates were disqualified as they could not comply with the</p>	<p>qualification requirements set forth by the procurement entity. So, there were left only two bidders in the competition. Should this Procurement procedure continue with the only two left candidates?</p>

Findings and Recommendations

- The procedure should be suspended.
- The PPA approval is needed in this case in order to continue the procedure.

Public Procurement Agency (PPA) Open Tender with one candidate	
<p>In an “Open Tender” procedure, 4 candidates have bought the tender documents. During the first phase of assessing the legal documents, one of the candidates was disqualified, as could not comply with the qualification requirements set forth by the procurement entity. There were left only 3 candidates. During the second phase (opening of the offers),</p>	<p>two of the candidates did not fulfill the technical specifications required by the procurement entity. So, these two candidates were disqualified, and it was left only one candidate in the competition. Should the procurement procedure continue with the only one candidate?</p>

Findings and Recommendations

- The procedure in this case should not continue.

Public Procurement Agency (PPA) Competition between small business and big business	
<p>In a procurement procedure are presented 3 candidates, two of which belong to small businesses. During the first phase, the three candidates were qualified. How can we make compatible the offers presented by the</p>	<p>two candidates of small businesses, with that presented by the big business, during the second phase?</p>

Findings and Recommendations

- The procurement entity should calculate the fiscal obligations for small businesses.
- Fiscal obligations should be presented at the request for qualification.

Public Procurement Agency (PPA) Joint Venture-conditions for qualifications	
In a tender procedure, one of the candidates is presented in a Joint Venture activity with another firm. What kind of conditions should this	Joint Venture comply with in order to be qualified in this procurement procedure?

Findings and Recommendations

- The Joint Venture should be declared in the offer.
- The terms of JV and its operations should be declared in the offer.

GROUP 3
Day 1

General Directorate of Railroads
Purchase of specific equipment and materials

The Procurement Entity of the General Directorate of Railways (GDR) proposes that the purchase of specific materials and equipment should be done based on direct connections with railways of other countries and a direct inspection of such materials and equipment. The Albanian Railway (AR) authorities contacted railway authorities of various countries i.e. Germany, Check, Hungry, and Italy, and decided that the Italian railway offers the most suitable technology and the best price.

As the “Direct Procurement” is not allowed for such railway specific materials and equipment, the Albanian Railway addressed the problem to the Ministry of Transport and Telecommunication (MTT). Based on the document No. 1430, date 11.06.2002, the MTT sent to GDR the Decision of the Council of Ministers No.235, date 01.06.2002 that allows the use of “Direct Procurement” procedure to purchase transportation means.

This way the GDR was allowed to use the direct procurement procedure using a of 65,000,000 Leke, in order to purchase the transportation means through “TRENITALIA”.

Findings and Recommendations

- Cases of wagon’s purchasing have been under discussion for many years now.
- The Albanian railway does not have the financial capacity to purchase new wagons, but only used ones. The technical specifications must be presented in detail for such cases.
- In the above case, the Albanian Railway system has a technical and economical agreement with the “TRENITALIA” offer. Thus, “TRENITALIA” is selected after several contacts with other European Railways.
- Purchases of any specific item for specific sectors i.e. railway, ports, etc, should get approved through special Decisions of the Council of Ministers.
- It is recommended to apply International Limited Tender (despite the value), for such cases as purchase of wagons.
- Need to identify appropriate mechanisms that will allow the government to provide solutions for specific cases through Generalized Decisions.

Durres Port	
The origin of production is the best supplier for goods and equipment	
<p>Durres Port Authority faces a lot of difficulties purchasing spare parts for the Check and Hungarian electro cranes that are used in the Port. Therefore, port’s specialists should be able to purchase spear parts at the place of origin. Durres Port is supplied with machineries and</p>	<p>equipment from western countries, The value of such machinery and equipment spare parts is much higher than the limit fund for direct procurement. Considering this, we propose that the Port Authority should have the competence to implement direct procurement, at any cost.</p>

Findings and Recommendations

- Based on the Law, PPA provides the procurement entities with the right to apply the Direct Procurement.
- The Direct Procurement is allowed only in cases when the necessary documents are presented to justify it.
- The Direct Procurement is allowed in cases when, for technical reasons, the goods, services, etc., are provided only from one firm/company that holds the exclusivity.

Ministry of Economy	
Direct Procurement of bread from “BUKA TIRANA”	
<p>The Association of Producers and Traders of Bread has presented</p>	<p>as a share holding company “BUKA TIRANA”, with 51% state</p>

<p>to the Ministry of Economy (The Directorate of Competition and Consumers Protection) a claim related to the Decision of the Council of Ministers No. 141, date 19.04.2002, «On the use by some Tirana institutions and state entities Direct Procurement procedures on Bread Supply by “BUKA TIRANA” Anonymous Association.</p> <p>Based on point one of this decision, the institutions and state entities under the responsibility of the Ministry of Defense, Ministry of Public Order, Ministry of Justice, Ministry of Education and Science, and Ministry of Local Government and Decentralization (operating in Tirana), are allowed to use the Direct Procurement Procedure, for bread supply, only from the trade association “Buka Tirana” A.A.</p> <p>This practice (used during the last four years), which defines the use of limited funds according to the state budget approved for 2002, is supported by the fact that only “Buka Tirana” trade association A.A. is able to guarantee:</p> <ul style="list-style-type: none"> • Periodical supply in every situation; • Product’s quality; • Market price stability. <p>Based on discussions with the Directorate of Property Supervision in the Ministry of Economy, the Department of «BUKA TIRANA »A.A., and the head of bread producers and traders association, we noticed that :</p> <p>1. <i>The Activity of Bread Production and Trading has been liberalized</i> since 1992. In Tirana markets there are about 300 private entities involved in bread production as well</p>	<p>capital. The bread production business operates in a free and open market. The private companies engaged in bread production and trade can provide a periodical supply with high quality, which can be verified with the supplying they provide outside Tirana to the state entities under the responsibility of respective Ministries (i.e. air and maritime forces).</p> <p>2. Use of the direct procurement precludes free competition. This case places the bread production companies in the unequal and discriminatory market conditions. This is in contrary not only with Law 8044, “<i>On Competition</i>” dated 7.12.1995, but also with Law 7971, “<i>On Public Procurement</i>” dated 26.7.1995. According to the Public Procurement Law, <i>the Council of Ministers can allow the use of a procurement procedure, except the open tender, only in special cases or force major. Also, law 7971 prohibits the use of direct procurement when intended to avoid competition.</i></p> <p>In order to operate in a transparent and competitive environment, we would <i>suggest that such decisions should be proceeded by detailed economic and financial analysis in order to have a real assessment of their effect in the market.</i></p> <p>In addition, such acts should be discussed at the Consultative Council of Business level, so that business will present their suggestions before such acts become in effect. We suggest the use of normal procurement procedures.</p>
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Findings and Recommendations

- The Direct Procurement is allowed only when approved by the Decision of the Council of Ministers.
- The word “allows” in the case of bread purchase does not mean “obligates”.
- This activity for “BUKA TIRANA” should be kept in function, due to the state policy for bread production.

National Agency of Air Traffic Direct Procurement for specific goods and services	
<p>The technical service contracts and purchase of spare parts, (that are unique due to specifications of enterprise and the nature of such goods), needs to be realized through firms that have provide the goods. In fact, the Air Traffic Agency has faced difficulties to get the PPA approval for direct procurement. Such difficulties are faced with Systems of SIEMENS, meteorological equipments, secondary radar’s equipment with</p>	<p>Alenia Marcone firm, aeronautical transmission system, etc. ANTA faces difficulties related to the approval of procedures by the Central Organs, as the approval takes unlimited time. Typical for such case is the purchase of the Transponder as well as the technical assistance support by Alenia Marconi firm for the radar system MSSR, as well as the construction of the new offices for ANTA.</p>

Findings and Recommendations

- PPA recognizes the need for Direct Procurement for specific goods and services at the Air Trafficking sector.
- PPA will consider the concerns of Air Trafficking Agency on purchasing equipment, spare parts and services through Direct Procurement procedures, and will take measures to solve this problem.

Durres Municipality Emergency situation in the case of water pollution	
<p>There was an emergency case related to water pollution in the Municipality of Durres. Using an accelerated procedure, the Municipal Council allocated 2.000.000 Leke to be used as direct procurement for taking care of the emergency. It should be noted that local governments do not have the deciding authority to apply direct procurement, first, they must obtain PPA approval.</p>	<p>Without saying that PPA has prolonged the procedure, it should be mentioned that there were so many documents to be filled out, that the time required to prepare them was equivalent to the time required to conduct a limited tender procedure.</p>

Findings and Recommendations

- For such emergency cases, we propose that Letter “ë” be a competence of Procurement Entities.
- Procurement Entities should have more freedom to use funds in emergency cases.

Ministry of Territorial Adjustment and Tourism Opinion on “Open Tender” procedures	
<p>In our opinion, it is necessary to eliminate the procurement forms “Limited Tender”, “Request for Quotation”, Request for Offers”,</p>	<p>public procurement rules, in order to avoid the compromise of procurement procedures.</p>

allowing only the “ <i>Open Tender</i> ” and the “Direct Tender” with a limit fund defined by the	
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Findings and Recommendations

- The article 2 is in conflict with Article 36, point “b”. PPA should consider this conflict and come up with proposals to solve it.

Ministry of Territorial Adjustment and Tourism Requests for qualifications	
In order to avoid the subjective judgments of the procurement entities, <i>the requests for qualification</i> should all be defined in the law. This way,	the requests for qualification should not become a competence of the procurement entity.

Findings and Recommendations

- The competence of exclusion cannot be applied in this case, as PPA is a neutral body, while a procurement entity faces emotional situations.

Ministry of Territorial Adjustment and Tourism Institutions’ Obligations to provide information	
<i>It is important to define the provision of documentation for qualification of candidates, as an institutional obligation. Institutions should provide the official data any time required by the procurement entity. The</i>	procurement entity has the right to verify the entire documentation presented by subjects in the tender.

Findings and Recommendations

- The Procurement Entities must verify all documentation provided by institutions.

Ministry of Territorial Adjustment and Tourism	
Repeating and Postponing a tender	
The law should define cases when the tender is postponed, when it is	repeated, as well as how the procurement entity will proceed in such cases.

Findings and Recommendations

- This case is solved through the Decision of the Council of Ministers, date 24.05.2002

”VJERO” Firm	
The Winner provides the minimal value	
The working group X that has formulated the tender documents has defined a value and a time schedule to complete the work. Firms that	provide values under the defined cost should be disqualified. No firms/companies can work under the cost.

Findings and Recommendations

- When a very low value is offered, it should undergo a very detailed cost analysis.
- In such cases the German Law might be taken in consideration: the firm classified in the second place should perform the supervision.

- There is a need to established mechanisms that will make the firm responsible in case of quality break.
- The guarantee period, after the work completion, needs to be stronger and all guarantee conditions need to be applied.

”VJERO” Firm	
The Winner provides the shortest term	
The breaking of the nominal deadlines creates problems with production technology (i.e. Concretes needs a certain time to reach the point of resistance etc.) Or there is an order of works that needs to be followed in	order to allow other processes to take place. The breaking of the works technology might have other consequences in the construction.

Findings and Recommendations

- In addition to cost analysis, terms and schedule analysis should also take place.

”VJERO” Firm New firms are not qualified	
New firms have been established and are operating in the construction sector. They are mainly managed by construction engineers, and are trying to find ways for an effective investing.	The procurement law excludes those firms that have performed less than 50% of the value of tendered works for the last three years. How the new firms can be competitive in the market?

Findings and Recommendations

- The Request for Quotations for new firms needs to be revised. The value of objects procured by new firms should be increased in geometric progression.
- For similar contracts, with a value of 50% of the value that is being procured, certifications from procurement entities (public or private should be presented). These certifications are declared in the financial documentation of the firm.

Public Procurement Agency (PPA) Limited Tender with two candidates	
<p>In a “Limited Tender” procedure, 5 candidates have bought the tender documents. During the first phase of assessing the legal documents, 3 candidates were disqualified as they could not comply with the</p>	<p>qualification requirements set forth by the procurement entity. So, there were left only two bidders in the competition. Should this Procurement procedure continue with the only two left candidates?</p>

Findings and Recommendations

- The Law states that should be presented at least 3 offers. In addition, the Law states that the qualified candidates should be selected.
- The solution for this case is given at the Guideline No.1 of the Council of Ministers, date 01.01.1996.

Public Procurement Agency (PPA) Open Tender with one candidate	
<p>In an “Open Tender” procedure, 4 candidates have bought the tender documents. During the first phase of assessing the legal documents, one of the candidates was disqualified, as could not comply with the qualification requirements set forth by the procurement entity. There were left only 3 candidates. During the second phase (opening of the offers),</p>	<p>two of the candidates did not fulfill the technical specifications required by the procurement entity. So, these two candidates were disqualified, and it was left only one candidate in the competition. Should the procurement procedure continue with the only one candidate?</p>

Findings and Recommendations

- The competition continues. Documents are sent at the PPA, and if the procedure gets approved, it will continue.

Public Procurement Agency (PPA) Competition between small business and big business	
<p>In a procurement procedure are presented 3 candidates, two of which belong to small businesses. During the first phase, the three candidates were qualified. How can we make compatible the offers presented by the</p>	<p>two candidates of small businesses, with that presented by the big business, during the second phase?</p>

Findings and Recommendations

- They should be in similar conditions for competition.

Public Procurement Agency (PPA) Joint Venture-conditions for qualifications	
In a tender procedure, one of the candidates is presented in a Joint Venture activity with another firm. What kind of conditions should this	Joint Venture comply with in order to be qualified in this procurement procedure?

Findings and Recommendations

- Subjects that are cooperating in a Joint Venture should fulfill all the legal requirements for qualifications.

**GROUP 1, 2, 3
Day 2**

Durres Municipality Lowest offer wins the tender of road construction	
Setting up a limit fund as the main evaluation criteria, is critically damaging for the value of the tendered objects, and consequently the quality of works.	For example, in a tender organized for the reconstruction of the road Dalip Peza, with a limit value of Leke 57,000,000, the lowest offer, classified as the first one, was Leke 41,000,000.

Findings and Recommendations

- Should the Limit Fund be declared or not?
- The optimal value should receive 80 points, to eliminate those firms that provide the lowest values.
- It is important to audit the competing firms/companies in terms of their offers.
- The Procurement Entities should provide better directions on technical specifications.
- In this case, a formula to calculate the average value needs to be applied. After this value is defined, the winner should be the firm closer to the average value. The inter-ministerial group does not accept this proposal, and the low value criteria are still in power.
- It is proposed to apply disqualification to those firms that provide the lowest values.
- Projects should be well defined and prepared in detail. The supervision’s role is very important in this case.
- The low value limit and the high value limit are defined in the Law.
- It is important to connect the three phases: tendering, supervision, and project’s implementation. This requires the establishment of a project’s opponent institution.

General Directorate of Roads Implementation of procurement guidelines	
<p>In the current practices applied by the GRD on public procurement, there are some uncertainties and discordances between the policies that this directorate would like to implement and the guidelines provided by the Ministry of Transport and Telecommunications or the Procurement Agency. The proposed policies by GRD consist in the increase of work efficiency, by having better guarantees on winners professional capacity, seriousness, and fulfillment of other requests set forth by the law, in order to complete on time and according to required quality all road objects. Example:</p> <p>1. In a tender procedure, the commission, after having completed the respective procedure according to article 31, of Law no. 7971, date 26.07.1995, “On Public Procurement”, and requested additional documents and information according to article 12, point 2 and point 6 of this law, has cancelled the procurement procedure due to irregularities noticed, as well as unreliable information provided. The value of additional works that were required would have created a cost increase above the</p>	<p>foreseen funds. It is necessary to provide more legal space and more competences to the procurement entity by having a better coordination of work with the public procurement agency, in order to increase the work standards for road construction.</p> <p>2. In the article 12, point 5 of the Law 7971, date 26.07.1995, “On Public Procurement” it needs to be added: “the disqualification should extend its effects even when the candidate’s previous job reflects a low quality (in implementing its contracts with the procurement entity), for objects that are not taken over due to low quality; when the contracts are interrupted; or some of the contractual obligations are not fulfilled. We have faced such cases in the procurement procedures that are developed by GRD. After the candidate fulfills all criteria set forth by the Procurement Entity, it can participate in the bidding process, even though it goes through the above mentioned cases.</p>

Findings and Recommendations

- How could a project considered “not correct” when it gets approved by the Procurement Entity itself?
- Might be necessary to have private projects’ evaluators. This is based on a Decision of the Council of Ministers allows the recruitment of private evaluators.
- The Government should become a stronger opponent body.
- It is proposed to provide funds to municipalities to handle projects.

The Ministry of Transport and Telecommunications Correct implementation of the Public Procurement Law	
<p>Attached to the annual guideline of investment’s budget for 2002, (that is sent to the Procurement Entities under its jurisdiction), the MTT has enclosed the request for Procurement Entities under its responsibility to provide in their requests for qualifications, a criteria for interested bidders to present (through legal documentation) their work experience in similar works with a value of 50% (in each of the last three years (1999, 2000, 2001), of the total value of object that will be procured.</p> <p>Through this request the MTT aimed to increase the competition by limiting the participation of small firms, in order to perform not only qualitative works but also to reach the deadline. It is important to mention that this request did not have any legal basis at the Public Procurement Law or its sub legal acts in power, and allows subjective interpretations.</p> <p>This happened as the Procurement Entity X interpreted the request of the MTT as a right of MTT to subjectively judge firms experience.</p>	<p>In fact, the limit fund defined by the Procurement Entity, in some cases has exceeded 200% of the value of work experience similar to the object to be tendered. The qualification criteria was against the legal dispositions in power as well as the Guideline of the MTT according to the Paragraph 1, narrowing the space of participation in the competition, and discriminating the interested competitors.</p> <p>The approval of the procurement procedure for objects with a request for qualification according to the paragraph 4, based on the legal dispositions in power, was competence of the PPA. Noticing the break of the law, PPA did not approve the respective procedure, and ordered the repetition of tender, recommending to the MTT to change the respective guideline in accordance to the Public Procurement Law and its sub legal acts.</p> <p>As a conclusion, we think that this case is an evidence of the important role that PPA plays with respect to the correct implementation of the Albanian Law of Public Procurement.</p>

Findings and Recommendations

- The Procurement Entity should propose the replacement of the word “can” with the word “must” in the Law.
- The case of 50% is a miss interpretation of the Procurement Entity.
- PPA needs to provide a solution for cases when the 50% is realized years ago (i.e. 4 years).
- PPA should clarify the terms: “similar works” and similar objects”.

The General Directorate of Railway Specific sectors face difficulties to comply with the law	
This case is related to the document Nr. 7/7, date 16.05.2002, received from the Ministry of Transport and Telecommunications. In this document it is required the realization of not less then 50% of the value of the object for the last three years.	The railway sector (based on its specifics) faces difficulties to realize the tendering procedures, i.e. in the case of concrete or wood beams. This is due to the fact that during these last years, none of the subjects has realized purchases of such type, as beams are specific goods of the railway sector

Findings and Recommendations

- The same as for the Ministry of Transport and Telecommunications.

The General Directorate of Water and Sewage
Construction of Water Supply station in Fushe Magjat, Kucove

<p>Procurement Form: Open Tender.</p> <p>The Procurement Entity conforms all rules of public procurement defined in the Law No. 7971, date 26.05.1995, “<i>On the Public Procurement</i>”, and it has organized the tender on “<i>Construction of Water Supply Station Fushe Magjat, Kucove</i>”. The competing firms could not qualify when the tender legal documents were open. Considering this, and based on the Guideline No. 1, date 1.1.1996, Chapter VII, “Repeating the Tender”, the procurement commission cancelled the tender procedure.</p> <p>The tender was open for a second time. Due to a mistake done by the Procurement Entity, in some of the tender documents the water supply system was required with two water stores, and in some other documents with only one water store. So, when the tender was open, one of the competitors has presented its project with only one water store, while</p>	<p>others did it with two water stores. The commission decided to ask the firm that has resented the offer with one store, to double the price of it. This competing subject did not accept the offer, as they could build two stores with a cost lower than the double price of one store. This way the commission decided to cancel the tender.</p> <p>The firm made a claim at the Public Procurement Agency, which in return confirm the deadlines defined in the procurement law, and cancelled the procedures of this tender. The Procurement Entity prepared the file of documents and sent it for further assessments to the PPA. The PPA requested to re evaluate the refused offers, placing bidders in the same base of competition. The commission implemented the decision of PPA and re evaluated the offers adding to the firm competing for one store the value of a second one. After this mathematical corrections were done, the firms were classified according to the results of such calculations.</p>
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Findings and Recommendations

- In this case we have irregularities caused by the procurement Entity.
- The tender should have been cancelled.

EVALUATION REPORT

Introduction

Evaluation forms, with a ranking scale from 1-Poor to 5-Excellent, were used to collect workshop participant’s assessment, ideas and suggestions regarding (i) *Workshop Content and Structure*; (ii) *Instructional Methods*; and (iii) *Logistical Support*.

In addition, participant’s comments, opinions and suggestions were collected through questions presented in the second part of the evaluation form. The questions were about (i) *Participant’s workshop goals*; (ii) *Goals fulfillment*; (iii) *Knowledge acquired*; (iv) *the most beneficial part of the workshop*; (v) *Participants previous thoughts changes as a result of what they learned during the workshop*; (vi) *Proposals on any other form of organizing workshops*; (vii) *Issues that participants would like to be treated in future trainings*; and (viii) *Participants additional comments*.

Evaluations Summary

I. All workshop topics were evaluated as highly important. Group Discussions, as well as Question & Answer Sessions were evaluated as “Excellent”, respectively 35.5% and 35.6%. All sessions were evaluated as “Very Good” ranging from 32.3% for Session 1 “*Albanian Legislation and its changes*” up to 64.5% for Session 4 “*Presentation of Cases*”. (See Appendix 1 for details).

Questions on the Instructional methods included participant’s evaluation in terms of 1. *Presentations by instructor/ trainers*; 2. *Case studies*; 3. *Course materials*; and 4. *Questions and Answers*. Course Materials were evaluated as “Excellent” by 64.5 % of participants. Presentation by Trainers was evaluated as “Excellent” by 35.5%, and the Question and Answer session evaluated as “Excellent” by 32.3% of participants. (See Appendix 2 for details).

The Logistical Support included participant’s evaluation in terms of 1. *General Information*; 2. *Briefing/Orientation*; and 3. *BAH support staff*. BAH support staff was evaluated as “Excellent” by 54.7% of participants; Orientation was evaluated as “Excellent” by 35.5%, and General Information was evaluated as excellent by 25.9% of participants. In addition, General Information; Briefing/Orientation; and BAH support staff were evaluated as “Very Helpful” respectively by 38.9%, 35.5%, and 54.8% of participants. (See Appendix 3 for details).

Participant’s goals attending the workshop are summarized as follows:

- (i) To learn about other participants’ experience in the field of public procurement;
- (ii) To receive answers on issues faced during the day to day work related to public procurement;
- (iii) To better informed about public procurement laws and regulations;
- (iv) To participate directly in discussion of typical cases and receive solutions on issues related to them;

- (v) To meet procurement specialist from other entities;
- (vi) To get familiar with the procurement issues in the construction sector;
- (vii) To have an exchange of ideas;
- (viii) To provide thoughts opinions on legislation improvements;
- (ix) To meet staff from PPA;
- (x) To increase professional skills in terms of procurement issues;
- (xi) To present proposals on sub legal acts improvement;
- (xii) To coordinate further the cooperation between PPA and its clients.

Goals Fulfillment

87.1% of participants responded that their goals were totally fulfilled, and 12.9% indicated that they have fulfilled their goals in a satisfactory level.

In addition, participants have provided written comments in terms of fulfilling their goals, which are summarized in the following:

Goals were fulfilled in terms of

- (i) Acquiring more knowledge;
- (ii) Acquiring practical experiences;
- (iii) Clarifying various issues through question and answer session;
- (iv) Receiving a better legal interpretation on the public procurement issues;
- (v) How the common concerns were treated and common needs were met.

Knowledge acquired through the activity

Answering to the knowledge acquired through the workshop, 93.6% of participants stated that they have acquired new knowledge; 3.2% of them answered “No”, and 3.2% answered “Satisfactory”. In addition, participants stated that they have:

- (i) Upgrade their knowledge;
- (ii) Received detailed knowledge on the procurement in general;
- (iii) Clarified a lot of procurement issues;
- (iv) Have acquired new knowledge during the question and answer session and with the presentation and analysis of typical procurement cases.

The most beneficial part of the workshop

In decreasing order, the most beneficial sessions of the workshop were presented as follows:

- (i) Questions and answers;
- (ii) Group discussions;
- (iii) Presentations from Booz| Allen| Hamilton staff
- (iv) Knowledge on different problems faced by the procurement entities, and solutions provided for each of them;
- (v) Discussion of typical cases;

- (vi) Procedures on “*Open International Tender*”; “*Direct Procurement*”; “*Winners Evaluation*”; “*Project Design Services*”; “*Bidders Qualification*”.
- (vii) International Standard Bidding Documents;
- (viii) Public Procurement Documents prepared by BAH staff.

Participants previous thoughts changes as a result of what they learned during the workshop.

Answering this question, 77.4% of participants noticed that they have changed their previous thoughts on procurement law as a result of this workshop; 16.1% have answered “No”, and 6.5% have answered “Partially”.

Proposals on any other form of organizing such type of activity

Answering the question on the organization of similar types of such activities, 61.3% of participants did not propose any other form of preparing such type of activity, 32.3% provided no comments, and 6.4% provided in summary the following comments:

- there is a need to organize as many as possible of such type of events;
- there is a need to organize such type of workshops with participation of foreign experts, who can share international experiences on procurement;
- PPA should collect continuously the procurement user’s opinion and improvements to the law;
- workshops for local governments needs to be organized at the local level, i.e. Shkoder; Elbasan; Vlore; Korce.
- this type of workshops need to be organized before preparing changes to the law;
- it is important to organize training for PPA staff;
- there is a need to involve more people from procurement entities in this type of workshops.

Issues that participants would like to be treated in future trainings

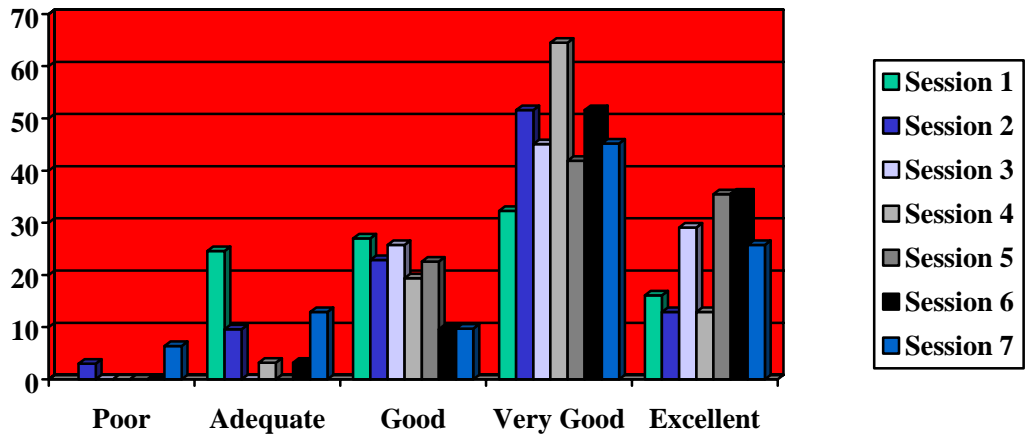
In summary the issues that participants would like to have addressed in future training are presented as follows:

- (i) Any Issues regarding public procurement are valuable;
- (ii) Procurement experiences from other countries; FIDIC contract; International procedures and comparison to the Albanian Law;
- (iii) Examples on Public Procurement information and standard bidding documents from other countries; International tenders; tender in two phases; project design tenders; offers evaluation; bidders classification; project design procurement; international open tenders; standard bidding documents; technical specifications;
- (iv) In future trainings is important to have questionnaires before attending the training; such questionnaires will serve to collect information on training topics.

Participants Additional comments

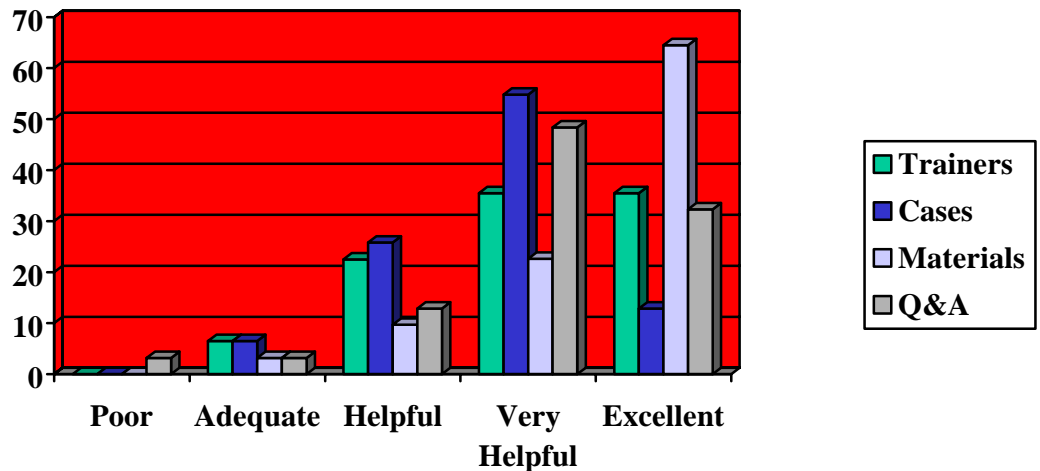
- (i) Participants additional comments include:
- (ii) Participants addressed many thanks to the USAID and RIP;
- (iii) The organization of the workshop was considered an excellent event;
- (iv) The work of RIP-Albania staff considered excellent;
- (v) This kind of workshops need to be organized as often as possible.

**Appendix No.1
WORKSHOP TOPICS**

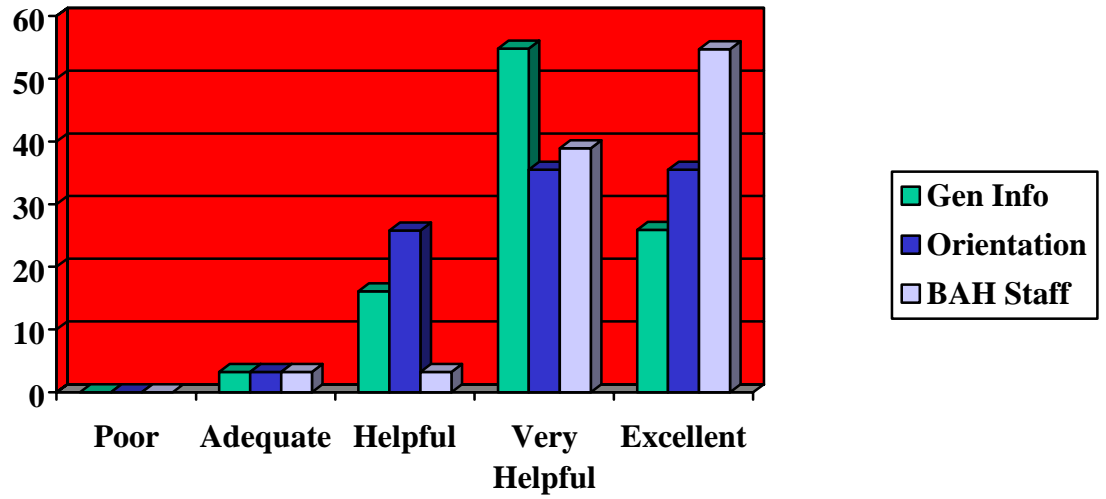


Appendix No.2

INSTRUCTIONAL METHOD



**Appendix No.3
LOGISTICAL SUPPORT**



APPENDIX III

TRAINING

- 3.1 Train the Trainers**
- 3.2 Lectures on Procurement**

3.1 Train The Trainers

TRAINER’S NOTES

<p>Session 1</p> <p>Theme: “The four steps of the training process”</p> <p>Objective: “By the end of this session, participants will be able to describe the training process”.</p> <p>Time: 45’</p> <p>Method: Brainstorming, group discussion, Lecture, Individual and Group Activity</p> <p>Materials: Visual aids to present the training process; Part 1 of the TTT Handbook, paper and pencils, flipchart, scotch</p>	<p>Session 4</p> <p>Theme: <i>“Planning a Training Session”.</i></p> <p>Objective: “By the end of this session, participants will be able to plan a training session.”</p> <p>Time: 45’</p> <p>Method: Lecturing, individual and group activity</p> <p>Materials: Part 3 of the TTT handbook, Template on “Preparing a Training Event”, MS Forms, transparent paper, Markers for transparent paper.</p>	<p>Session 7</p> <p>Theme: “Conducting a Training Session”.</p> <p>Objective: “By the end of this session, participants will be able to deliver a short lecture”</p> <p>Time: 45’</p> <p>Method: Individual and Group activity</p> <p>Materials: Presentations will be prepared in flipchart, visual aids, evaluation forms (60)</p>
<p>BREAK 10’</p>	<p>BREAK 10’</p>	<p>BREAK 10’</p>
<p>Session 2</p> <p>Theme: “Training Needs Assessment: How To”.</p> <p>Objective: “By the end of this session, participants will be able to conduct a training needs assessment”</p> <p>Time: 45’</p> <p>Method: Lecture, Role Playing Interviews, group activity.</p>	<p>Session 5</p> <p>Theme: <i>“Effective ways to prepare and Communicate Information”.</i></p> <p>Objective: <i>“By the end of this session, participants will be able to use effective visual aids to communicate the information”.</i></p> <p>Time: 45’</p> <p>Method: Individual and Group Activity</p>	<p>Session 8</p> <p>Theme: <i>“Evaluating a Training Session”.</i></p> <p>Objective: “By the end of this session, participants will be able to evaluate a training session”</p> <p>Time: 45’</p> <p>Method: Group Activity</p> <p>Materials: Evaluation Forms used in</p>

<p>Materials: Flipchart; Markers; Part 2 of the TTT handbook, A4 paper</p>	<p>Materials: Part 3 of the TTT handbook, visual aids, scotch</p>	<p>Session 7</p>
<p>BREAK 10'</p>	<p>BREAK 10'</p>	<p>BREAK 10'</p>
<p>Session 3</p> <p>Theme: “How to write training objectives”.</p> <p>Objective: “By the end of this training, participants will be able to <u>write</u> training objectives”.</p> <p>Time: 45'</p> <p>Method: Brainstorming, Individual and Group work, Lecturing</p> <p>Materials: Flip chart; Markers; Part three of the TTT handbook, A4</p>	<p>Session 6</p> <p>Theme: “Effective ways to work with a group”</p> <p>Objective: “By the end of this session participants will be able to <u>facilitate</u> group work”</p> <p>Time: 45'</p> <p>Method: Group discussion, Lecture</p> <p>Materials: a case study from the Workshop organized with PPA workshop; flipchart, Part 4 of the TTT handbook</p>	<p>Session 9</p> <p>Theme: “Training Evaluation”.</p> <p>Objective: “By the end of this session, participants will be able to <u>prepare</u> a training evaluation form”</p> <p>Time: 60'</p> <p>Method: Individual and Group, Activity, Feedback</p> <p>Materials: Evaluation forms from the TTT handbook, Part 5, paper and pencils, TTT Training Course Evaluation Form</p>

SESSION1

Theme: The four steps of the training process

Objective:

“By the end of this session, participants will be able to **describe** the training process”.

Session’s Time: 45’

Method: Brainstorming, Group discussion, Lecture, Individual and Group Activity

Activities:

1. Session’s Introduction 5 minutes

2. *Assessing Existing Knowledge.* (Group Discussion). Participants will be asked to share with the group their understanding of the following concepts: Training Needs Assessment; Training Planning and Design; Conducting the Training and Training Evaluation. Trainers will facilitate the activity. Tell the trainees that this method is called brainstorming and can be used during the training courses they will organize. 10 minutes

3. *The training Process.* (Lecturing). The trainer will provide information using the TTT handbook, Part 1 as reference. 15 minutes

4. *Illustrating the Training Process.* (Individual/Group Activity). Participants will draw their own design to illustrate the four steps fro the training process. The trainer will stick all the illustrations on the wall, and the group will select the best illustration 10 minutes

5. Questions on the session and session’s wrap up 5 minutes

Materials: Visual illustrations on the Training Process; TTT Handbook, Session 1, Paper and Pencils, Flipchart, Scotch

SESSION 2

Theme: Training Needs Assessment: How To

Objective:

“By the end of this session, participants will be able to conduct a training needs assessment”

Time: **45’**

Method: Lecturing, Role Playing/Interviewing, Group Activity

Activities:

- | | |
|---|------------|
| 1. Session’s Introduction | 5 minutes |
| 2. <i>Needs Assessment Defined</i> (Lecture). The trainer presents the concept and refer the participants to the TTT handbook, Session | 10 minutes |
| 3. <i>Gathering Information: Interview</i> (Role Playing/Interviewing). The trainer will introduce an hypothetical situation in which training is requested., i.e. “Training Needs of the procurement entity at the Tirana University”. The trainer delivers A4 paper to participants to write down the interviews. Half of the group will be the interviewers, and the other half will be the interviewee. The participants will be pared and a 5’ interview will take place. Meanwhile the trainer will show on the screen the most frequently asked questions. | 10 minutes |
| 4. <i>Prioritizing the Needs</i> (Group Activity). Working with the needs identified during the interviews, the group will decide which needs are more important and will produce a ranked list of needs. The list will be written in the flipchart | 15 minutes |
| 5. Questions on the Session and Session’s wrap up | 5 minutes |

Materials: TTT Handbook, Part 2; Flipchart; Markers; A4 paper

SESSION 3

Theme: How to write training objectives

Objective:

“By the end of this training, participants will be able to **write** training objectives”

Time: **45’**

Method: Brainstorming, Lecturing, Individual and group activity

Activity:

1. Session’s Introduction 5 minutes

2. *Training Objective’s definition:* (Individual and group work). The trainer will present the activity showing to the group the Training Objective definition, by writing in the flipchart: **The Objectives describe a training course in regard to what will be able to do the trainees after the training course**. Each participant will be asked to come up with a statement for an objective in their life that requires training. 10 minutes

3. *How to write training Objectives.* (Lecturing). The trainer will present information on how to write the objectives referring to the Session 3 of the TTT Handbook. During the lecturing at the point measurable..... the trainer gives the example “Objective: To loose weight” This objective by the end of the lecturing will be transformed into: “To loose 20 kg without damaging my health within one year, using the Japanese diet, exercises, and intensive walking. 10 minutes

4. *Practice on Writing Training Objectives:* (Group activity). Acting as a facilitator, the trainer will allow participants to work in pears to correct and rewrite the personal objectives they had prepared at the beginning of the session. After rewriting both partners will analyze the objectives. One objective is selected to be presented voluntarily into the large group. The group analyzes the initial objective and the improved one 15 minutes

5. Questions to the Session and Session’s Wrap up 5 minutes

Materials: Flip chart; Markers; TT Handbook part 3, A4

SESSION 4

Theme: Planning a Training Session

Objective:

By the end of this session, participants will be able to **plan** a training session.

Time: 45'

Method: Lecturing, Individual and Group activity

Activity:

- | | |
|---|------------|
| 1. Session’s Introduction | 5 minutes |
| 2. <i>Materials and Logistics in a Training Plan</i> (Lecturing). The trainer will explain the concepts using the Part 3 of the Handbook. Participants will receive Forms 1 and 2, the filled out forms of the activity with Tirana University, and MS Project format for the preparation of TTT | 10 minutes |
| 3. <i>Planning Practice</i> (Individual and Group Activity). Participants will be divided in groups of 4 (counting 1,2,3,and 4) having the duty to prepare a training session, using the Theme and ready prepared form by the trainer. The theme for the training session will be: “ <u>On the direct procurement at the Tirana University</u> ”. Presentations will be on transparent paper with overhead projectors. | 15 minutes |
| 4. <i>Presentation</i> (Group Activity) One participant per group will present plans prepared by the group | 10 minutes |
| 5. Questions on the Session and Session’s wrap up | 5 minutes |

Materials: TTT Handbook Part 3, Forms No. 1 and 2 “Planning a Training”, filled out forms on Tirana University direct procurement, and the MS Project Format. Transparent paper, Markers for Transparent

SESSION 5

Theme: Effective ways to prepare and communicate information

Objective:

“ By the end of this session, participants will be **able to use** effective visual aids to communicate the information”.

Time: 45’

Method: Individual and Group Activity

Activities:

- | | |
|---|------------|
| 1. Session’s Introduction | 5 minutes |
| 2. <i>Presentation</i> (Individual and Group Activity). Visual aids (Overhead projector, Flipchart, LCD, slides) will be displayed in the room. By showing each tool to the participants, the trainer will read respective characteristics using the table on Pg. 14 of the Handbook. | 10 minutes |
| 3. <i>Selecting Effective Visual Aids</i> (Individual and Group Activity). Participants will be divided in three groups. One of the group members will refer to the Part 3 of the Handbook to read to the rest of the group what they should consider while preparing the information with visual aids. Participants will prepare a presentation in group by using the selected visual aid. | 15 minutes |
| 4. <i>Group Presentations.</i> (Group Activity). Each group after selecting the reporter, will present to the large group with the selected visual aid. | 10 minutes |
| Questions on the Session and Session’s wrap up | 5 minutes |

Materials: TTT Handbook, Part 3, visual aids, scotch

SESSION 6

Theme: Effective Ways to work with a group

Objective:

“By the end of this session, participants will be able to facilitate group work”

Time: 45’

Method: Group Discussion

Activities:

- | | |
|--|------------|
| 1. Session’s Introduction | 5 minutes |
| 2. <i>Case Study:</i> (Lecturing). The Trainer will select one of the case studies presented during the PPA workshop to discuss the role of an facilitator, recorder and reporter during the analyzing of a case study. The trainer will advise participants to refer to the TTT Handbook, Part 4. | 10 minutes |
| 3. <i>Being a good facilitator, recorder or reporter.</i> (group Discussion). Participants will have a group discussion based on the case study. During the group discussion, the trainer interrupts. The trainer will provide information based on the TTT Handbook, Part 4 | 15 minutes |
| 4. <i>Presentation in the group.</i> (Group activity). Reporters from each group will present the group findings, conclusions and recommendations using the flipchart | 10 minutes |
| 5. Questions on the Session and Session’s wrap up | 5 minutes |

Materials: Case study, flipchart, TTT Handbook, Part 4

SESSION 7

Theme: “Conducting a Training Session”

Objective:

“By the end of this session, participants will be able **to deliver** a short lecture”

Time: 45’

Method: Individual and Group Activity

Activities:

- | | |
|---|------------|
| 1. Session’s Introduction | 5 minutes |
| 2. <u>Lecturing</u> : (Individual and Group Activity) Participants will be divided in four groups of four members each. Each group member prepares lectures based on a free theme for 15’. In the small group of 4 people each member presents his/her lecture (5’X4persons=20’), while the three other members evaluate the presentation. They will use the following criteria: presentation’s clarity, information’s organization, and creativity. The evaluation will be done based on an evaluation form provided by the trainer. | 35 minutes |
| 3. Questions on the session and its summary | 5 minutes |
| 4. Materials: Presentations will be prepared in flipchart. Markers (15 pc.)
Visual aids, Evaluation forms (60) | |

SESSION 8

Theme: “Evaluation of a Training Session”

Objective:

“By the end of this session, participants will be able to evaluate the delivery of a short lecturing”

Time: 45’

Method: Group discussion.

Activities:

- | | |
|---|------------|
| 1. Session’s Introduction | 5 minutes |
| 2. <u>Evaluation of Information Delivery</u> . (Group Activity) Participants will exchange among each other in the small group the evaluations they did in the previous session. As well they will decide on the most effective techniques used for lecture delivery. The trainer will facilitate the discussion. | 35 minutes |
| 3. Questions on the session and its summary. | 5 minutes |

Materials: Evaluation Forms used in Session 7

SESSION 9
Theme: “Training Evaluation”**Objective:**

“By the end of this session, participants will be able to prepare an evaluation form”

Time: 60’

Method: Feedback

Activities:

- | | |
|--|------------|
| 1. Session’s Introduction | 5 minutes |
| 2. <u>Evaluation Instruments:</u> (Group Activity) The group will analyze two examples of evaluation forms referring to the Part 5 of the Handbook (Pg.25-27) | 10 minutes |
| 3. <u>Preparation of an Evaluation Form:</u> (Individual and Group Activity) Participants will prepare a short evaluation form to evaluate a training and then will share their opinion within the group for comments. | 15 minutes |
| 4. Questions on the session and its summary | 10 minutes |
| 5. TTT Course Evaluation | 5 minutes |

Materials: Evaluation forms from the TTT Handbook, Part 5, paper and pencil, Course Evaluation Form.

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INTRODUCTION

The purpose of this handbook is to give you guidance on how to plan, design, conduct and evaluate training events. A “training event” in this handbook is used a generic term to refer to any type of activity in which you are called to provide training. A training event could be a session, a course, a workshop, or any other type of training activity.

Training is a complex subject that requires, among other things, an understanding of adult psychology, learning processes and instructional methodologies. Putting together a training event not only requires good planning, design and organization, it also requires a good dose of ingenuity and creativity in order to deliver a training event that is interesting, effective and that produces the intended results. An effort has been made in this handbook to provide, in a compact form, the essential information you will need to provide effective training. The handbook is organized into five sections. These sections will take you, step by step through the Training Process. Section 1, Understanding the Training Process, gives an overview of the training process and a brief explanation of each step. Section 2, Training Needs Assessment, explains and gives you techniques on how to conduct a training needs assessment. Section 3, Planning and Design of the Training, explain how to write training objectives and select instructional materials. Also tells you how to manage the logistics. Section 4, Conducting the Training, gives you pointers on how to deliver training. Section 5, Training Evaluation, concentrates on the evaluation and provides you with sample forms.

The handbook has three Appendixes. In the Appendixes are included important background information that will help you preparing better training events and, in sharpening your skills as a trainer.

Section 1: UNDERSTANDING THE TRAINING PROCESS

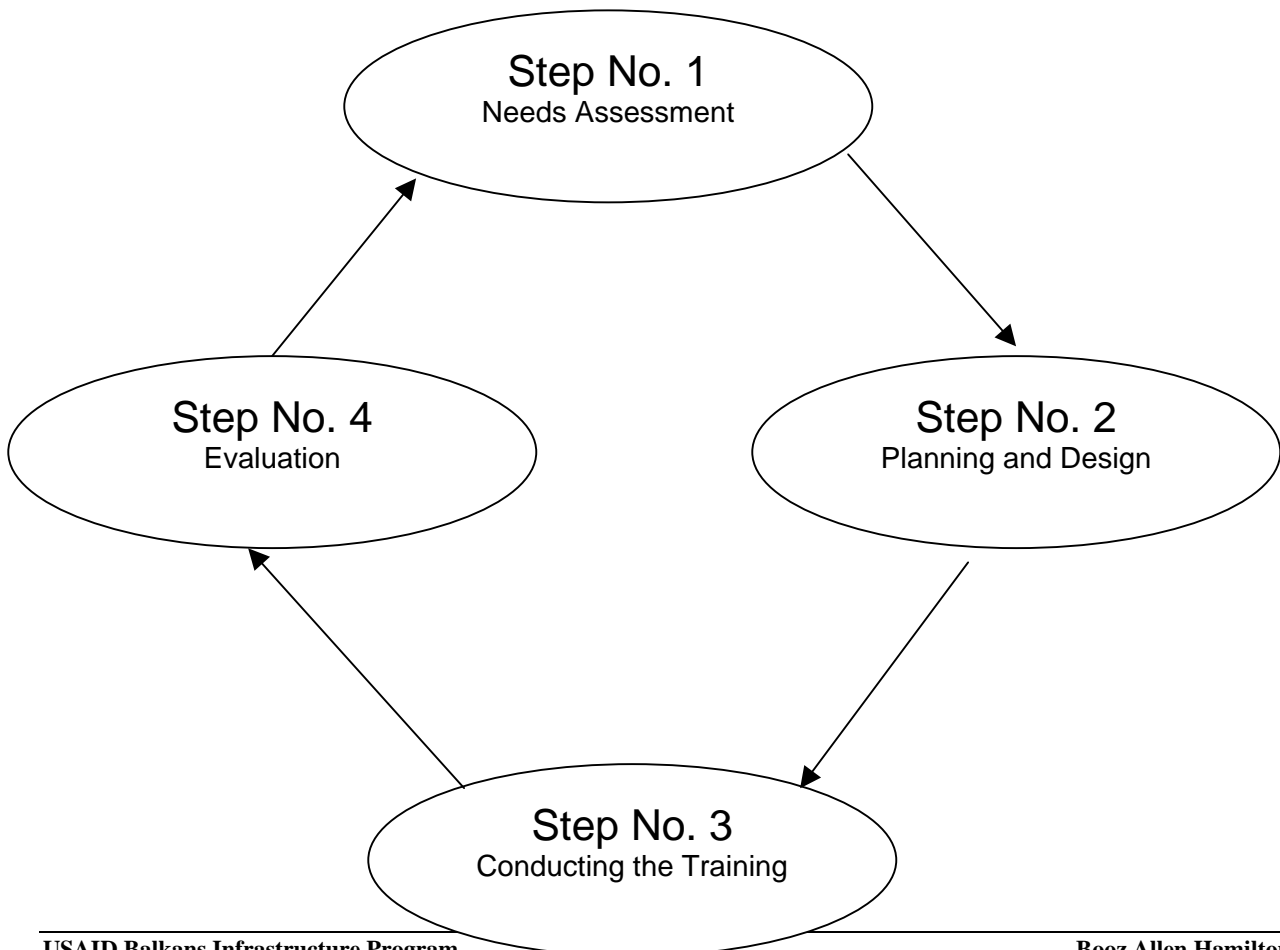
In this section you will be introduced to the training process. It is important that you have a clear understanding of this process because it gives you a good road map to follow when you are called to provide training.

The training process can be divided into four distinct steps. These steps are:

- Needs Assessment.
- Planning and Design,
- Conducting the training, and,
- Evaluation.

The steps in the training process are sequential, therefore, you should complete one before moving into the other. Going through the steps in the proper order will help you with the preparation, delivery and evaluation of successful training events.

The following figure illustrates the four steps of the training process and how they relate to one another:



Step No. 1: Training Needs Assessment

The main goal during Step 1 is to identify the needs for the training.

Before preparing any type of training event, you should conduct a training needs assessment to identify why the training is needed. This is the most important step in the whole training process. It provides you with the information around which you will build the entire training event.

Some of the techniques you can use to conduct the training need's assessment are: (i) interviews; (ii) revision of the related reports; (iii) survey questionnaires, (iv) evaluation reports of a previous training and any other similar activity that clarify the need for the training. Training needs assessment will be discussed in detail in Section 2 of this Handbook.

Step No. 2: Training Planning and Design

The main goal during Step 2 is to plan and design the specific details of the training.

During this step decisions are made regarding the content and logistics of the training. For example, goals and objectives; the scope of the training event, the instructional materials; and methodologies are all decided during this step. Other related issues, such as, modules, hand out materials, audio-visual materials and guest speakers are also selected at this time. All of these decisions are made based on the information that was gathered during the needs assessment.

The logistics of the training is another aspect that is addressed during this step. Dates, sites, equipment, scheduling, etc., are all part of the planning. We will discuss Planning and Design in detail in Section 3 of this Handbook.

Step No. 3: Conducting the training

The main goal during Step 3 is to conduct training that is well planned and that produces the expected results

Conducting and delivering the training requires good planning and attention to details. A good training plan that is not properly delivered will not produce the expected results therefore, in this step you concentrate in orchestrating the best delivery of the training.

Make sure you understand the logistics of the training, also make sure that the resources are in place and that all equipments are in working order prior to the training. You may want to prepare the training room in advance; and be present at the training room at least one hour before starting the activity to check the last minute details and find alternatives in case of problems.

Delivering information is another aspect of conducting the training. We will discuss Conducting the Training in detail in Section 4 of this Handbook.

Step No. 4: Training Evaluation

The main goal of Step 4 is to determine if the goals and objectives of the training were met.

Different types of evaluation techniques can be used to measure if the training needs were met and if the training delivery was effective. Lessons you learn from the evaluation are meant to benefit future training events. Through evaluations, you can collect the basic information necessary to make changes to the training design or to make adjustments to the methodologies used during the training. You can use evaluation forms filled out by participants, as well as their informal evaluation to collect evaluation information. The evaluation of training is usually focused on: (i) Content and Scope; (ii) Instructional Methods; and (iii) Participants reaction and suggestions. We will discuss Evaluating the training in detail in Section 5 of this Handbook.

Section 2: TRAINING NEED ASSESSMENT

Definition of Needs Assessment and its Role in Planning of training Events

The essence of the Need assessment is the collection of information. Therefore, Needs Assessment can be defined as the process of collecting and analyzing information in order to answer three critical questions. Why is the training needed? Who or for whom is needed?, and How much training is needed (Scope)? It is the first step and the most important one in the training planning process. When the need assessment is completed you should have enough information clear to determine the type of training being requested and why. In addition, you should have a idea of the training goals, the content of the training, the methodologies that need to be utilized, as well as other related aspects of the training.

Appropriate Techniques to Conduct Training Needs Assessment

Various techniques can be used during this process to collect information. These techniques, when properly used, provide a wealth of information for the planning and designing of a successful training event.

The most common techniques and with whom to used them:

Interviews: Supervisors, Managers, Specialists, staff, employees, prospective trainees.

Survey Questionnaires: Same as above

Group Discussions: Employees and supervisor, prospective trainees

Observations: Watch the task or job being performed

Research: Analyze evaluation reports, or evaluation documents; organization's mandates and any other document that can clarify for you the training needs.

Questions that might be asked to determine training needs are:

Why is this training needed?

Is there a problem that needs correction?

Who is requesting the training and Why?

Who are the prospective trainees

What do the trainees expect to get from the training.

Do the trainees already know about the content/subject matter

How much do they know

How much time and resources are available

How does the training fit within the organization's culture

Who are the stakeholders

The answer to these questions are not always clear since trainees, managers, supervisors may look at their needs and their organization's needs from different perspectives. Therefore, it is a good tactic during the needs assessment step to seek information from more than one interested party.

Prioritizing the Training Needs and getting ownership from the stakeholder

When the training needs assessment is completed you should analyze the information. From this information you should make a list of all the training needs ranked in order of importance. The most critical ones should go to the top of the list and they should be followed by the others placed in decreasing order of importance. It is seldom the case that you will have plenty of resources to serve all the needs, therefore you will need to decide which needs your training event will address and in which order.

These prioritizing helps you to make informed decisions regarding the allocating of your resources where they will have the most impact. The prioritizing should take place after the needs assessment is completed and after you have analyzed all pertinent information. At this point it is important to involve the stakeholders in the decision making process to ensure that the training plan event responds to their concerns and is tailored to the specific needs of the organization. This involvement also assures that stakeholders gain ownership and acceptance of the particular conditions of the training.

The best way to get an involvement from the stakeholder from the beginning of the process is to keep them informed about the activities that you are conducting. With the result of the need assessment, a brief report should be given to the stakeholders. The report can be given orally or in writing. It should include: the activities conducted, sources contacted, findings and results, suggestions and recommendations. In addition, a preliminary draft of the goals and objectives for the training event should be presented to the stakeholders for their feedback. Once the feedback is received, the training should be planned and designed.

Section 3: TRAINING PLANNING AND DESIGN

The main goal of the Training Planning and Design is to plan and design the specifics of the training event. In this Section we will look at the goals and objectives of the training: the scope of the training event, the instructional methodologies, visual and supportive materials and the logistics of the training.

The Training Goal:

The goal of the training is usually stated as an answer to the question, “*What is the purpose for this training?*” The training goal defines what the training will do in a general form. The Training goal is written as an overall statement of what is to be accomplished with the training.

Training Objectives:

Objectives are more specific than goals.

Objectives are the intermediate result. That, if put together, achieve the final training goal(s).

Objectives should be expressed in terms that are quantifiable, qualitative, and time-framed, and that illustrate direct linkage to training goals.

Objectives describe the training event in terms of what the *trainees should be able to do at the end of the training*.

Objectives must be clearly and precisely stated so that you and your trainees alike will know exactly the desired outcome of the training. This ensures that at the end of the program, each of you can easily agree whether or not the objectives of the training were achieved and how the program can be refined and improved if needed.

Writing Training Objectives:

To ensure that the objectives are stated properly, you must follow two basic rules:

Objectives must specify what the trainee will be able to do at the end of the training that was not able to do at the beginning of the training.

An objective must state the desired outcome of the training in terms of observable and measurable actions. Only actions can be observed and measured, and only by measuring they can be evaluated to determine whether the training was efficient and successful.

Training objectives must always have an action verb. The trainees must be able to do something that one can see and measure. Below you are presented with some examples of forms in which objectives are usually written:

Trainee will be able to _____
When presented with _____, *the trainee will* _____.
Under the following conditions, the trainee will _____.
At the end of the training, the trainee will _____.

In the blank spaces in the above sentences there should be verbs indicating observable measurable actions. There must be verbs that describe exactly what the trainer wants the trainee to be able to do. Some of the action verbs are listed below. They are observable and measurable, i.e:

Do	Demonstrate
Tell	Conduct
Write	Organize
Describe	Explain
List	Apply

Selecting Instructional Methodologies :

Once you have decided the goals and objectives of the training you will need to select the instructional methodologies you will utilize during the training. It is advisable that you use a variety of methods to make the learning interesting and exiting.

Some of the most popular are the following:

- Lectures,
- Group Discussions
- Case Studies
- Brainstorming

Lectures:

Lectures are the most popular way to present information on a subject matter. However they are not the best way to get the trainees involved since their only action is to listen to the presentation. The best way to use lectures is in combinations with other activities that require the trainees to be active..

In preparing a Lecture you should follow the following steps:

- Decide what your message is and who the audience is.
- Collect relevant information on the subject
- Make a rough draft
- Organize the information into a logical order (chronological, etc.)
- Make a thorough outline of the message.
- Plan your lecture (introduction, body, and conclusion),

Write your lecture,

Practice the delivery. The best way to practice is in front of a mirror where, you can evaluate not only the delivery but your body language.

In Evaluating the content of a lecture you should use the following questions:

Is the information being presented in a form that is the trainees can understand?

Is the message clear?

What types of supporting materials are necessary to convey the information.

When to use it?

You can use lectures as a useful tool when one or more of the following conditions are met:

There is little or no experience or knowledge of the subject in the group;

There is a need to present new ideas;

There is little time for the presentation;

A. Group Discussions

Group discussions are centered on a specific topic, problem, or question. Through them you aim at an exchange of ideas among members of a group. This exchange should be facilitated by you as a discussion leader.

When to use it?

You can use group discussion as a useful tool when one or more of the following conditions are met:

There is experience or knowledge of the subject in the group;

There is a need to create new ideas or action from these experiences;

There is a need for talking about personal values, feelings, or attitudes that will lead to involvement;

There are more complex ideas to understand or make decisions about;

There is a need to determine the participants' needs.

Case Studies:

Case studies are problem-identification, problem-solving activities. A case study is usually complex and contains several sets of information from a variety of sources. The focus in a case study should be on thinking, talking, and deciding about ways of solving the problem or addressing the situation and analyzing the factors that may have contributed to the situation and developing strategies for avoiding the problem in the first place.

The guidelines below are helpful in developing a case study:

The case study is a description of a specific situation as near as reality as possible

The focus is an actual situation where action can be taken or decisions can be made.

The discussion centers on an actual multifaceted situation

Case studies emphasize the particular rather than the general as much as possible

The participants are able to feel that they have had the experience the case study describes.

The decision making process for the case itself can be dissected and analyzed as the group moves toward a solution

When used well, the case study method gets the participant in the habit of making decisions.

If a time limit is established, decision-making includes learning how to judiciously use your time.

Case studies are best when they come as close to reality as possible. Therefore, they should reflect day-to-day life and decision making with an opportunity for differences of opinion.

When to use it?

Case study is useful when the learning goal is to practice analyzing a complex set of factors related to an specific situation or problem. It is a good technique to use when,

Developing participant's analytical and problem-solving skills;

Providing the basis for discussion of alternative solutions to a central or common problem;

Giving participants a chance to practice a method of tackling a different problem before they are personally involved in a real situation that may be difficult, confusing, frightening, or overwhelming.

Brainstorming:

Brainstorming is a technique that uses questions set for discussion to participants and their individual thinking as an initial step. Then, each participant is given time to think about which issues are important and make notes for themselves. There is no discussion involved at this point. Later, people discuss all their ideas, and when the majority of ideas are discussed, people can ask questions for clarification about suggestions, but not make judgmental comments. There may be several rounds for articulating ideas.

When to use it?

Mainly used as an initial step during group discussions, as well as to set up a warm group climate.

Using Visual Aids and Support Materials

Visual Aids and Support Materials are extremely important in the training process because:

Audio-visuals increase people's desire to learn. They attract attention, hold interest, and learners like them.

Audio-visuals save teaching time. They speed learning with their universal language. Stimulates learners to learn more and better.

The chance of learning failure is reduced when audio-visuals are used in presentations. Learners that are unfamiliar with a topic are brought up to speed quickly, and slow learners are especially helped.

Visually- communicated ideas interact more quickly with mental images of past experience. They match the left side of the brain better (the pictorial side where globalization takes place). The quality of learning is increased when audio-visual materials increase the globalization (matching the past experience) of ideas.

Retention and recall of information are improved even more than the learning itself. Some studies indicate a 35% increase in learning and a 50% increase in retention when audio-visuals are used with instruction.

How we Learn?

How we learn:			
See - - - - 75%	Hear - - - 13%	Touch - - 6%	Taste - - -3%
Smell - - 3%			

Considerations when designing Visual aids and Support Materials

During the course of the planning you may need to design your own visual aids and support materials. Considered the following advice when preparing them. Use large letters;

Limit the amount of information no more than 6 to 8 lines. While more lines might possibly be presented and read, it might be psychologically undesirable.

Try to present only one idea per visual. Break your information into clear thought-by-thought units that build to a larger story

Use phrases or key words, rather than complete sentences. Choose the wording carefully, for this will affect the ease and amount of recall.

Use charts, graphs and illustrations. Learning and recall are enhanced by using graphic/visual techniques, rather than copy alone.

Use more than one color for variety and interest. Be sure all colors have adequate contrast for easy viewing, and do not use more than 2 or 3 colors..

Increase interest/learning by using a variety of visual media, rather than relying exclusively on overhead transparencies.

The main characteristics of:

VISUAL AIDS	LETTER SIZES	ADVANTAGES	DISADVANTAGES	Users REMARKS
Flip Charts	Letters at least 5 cm high&5 mm thick to view at 1.5 m. larger for	Can be done “live” and you can interact with visuals;	Audience size limited to 30-50 people	Can be mixed with other visual aids; very effective with small groups

	greater distance			
Slides	Limit to 5-10 (max) lines of letters, 30 letters per line	Can mix photos, artwork, and lettering; very versatile	Dark room needed; can't add to it while projected; takes time for developing	Slides and projector are easily portable; good control with remote
Overhead Transparencie s	Limit to 5-10 lines of letters, 30 letters per line	Add words or drawings live while projected; can add layers; versatile	Noisy, distracting, machine between viewers and screen	Presenters often have too many words (too small) crammed on each visual
Power Point Presentation	Font size 18-32	Can mix with photos, graphics. Suitable for all audience sizes. Easily and quickly developed.	Can't add to it while projected. Need special equipment for the projection	Easily portable, and easy usable; good control with remote; allows combinations with other type of visuals.

Setting Up the training schedule

The main task you will have to do in setting up the scheduling of the training is to make sure that the time you plan for the training does not conflict with other events. For examples, it is not a good idea to start a training program right before a main holiday. On the other hand, it is a good idea to ask the trainees during the need assessment the hours they prefer for the activity.

The best way to prepare a training schedule is by using a grid in which you can place the sessions, the days and the time of the activities. In this way is easy to see conflicting times.

Planning The Logistics of the Training

The planning of the logistics involves the planning of all the elements that are necessary for the training to take place in the best conditions possible. Time, audience size, room size is to be considered when planning the logistics of the training event. In addition, all resources to support the activity must be considered (venue, hand outs, equipment, name tags, etc.). The following forms are samples you may use to organize the resources and logistic of the training. You may also decide to alter these forms to fit your particular needs or to design your own. We have also include a sample from a software program that you could use to help you with this planning:

Sample No 1: TRAINING – INFORMATION SUMMARY

TRAINING TITLE:	_____
PURPOSE:	_____
TRAINING FORMAT:	<input type="checkbox"/> Seminar <input type="checkbox"/> Workshop <input type="checkbox"/> Course
TRAINER’S NAME:	_____
ADDRESS:	_____
No. OF PARTICIPANTS:	_____
VENUE:	_____
TOTAL HOURS OF ACTIVITY:	_____
DATES AND DURATION	FROM: _____ TO: _____
	<input type="checkbox"/> Full – Time <input type="checkbox"/> Part – Time <input type="checkbox"/> hourly
ESTIMATED BUDGET:	_____
MISCELLANEOUS:	_____ _____ _____

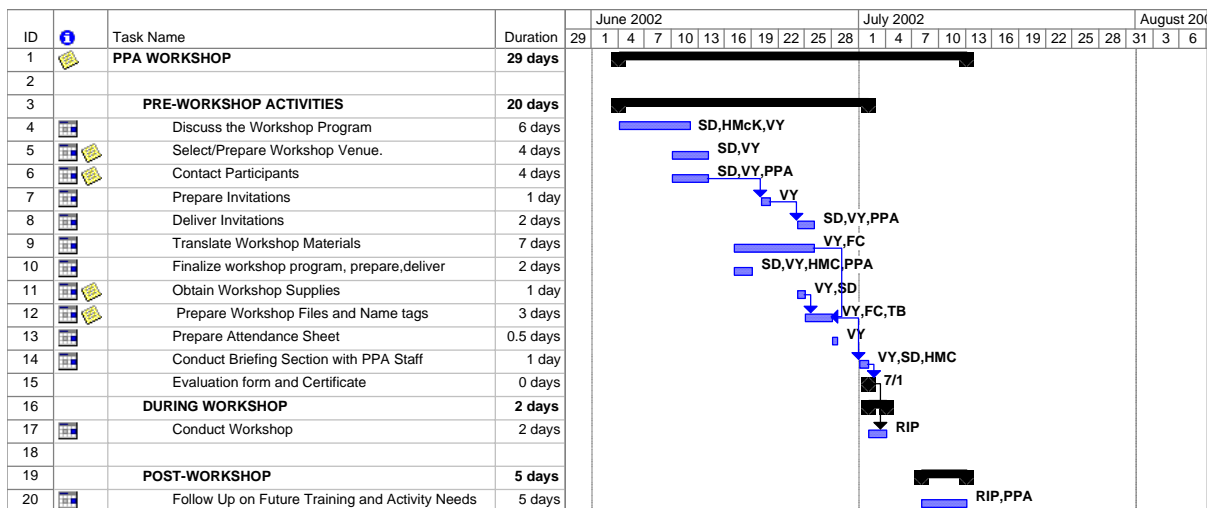
Sample 2: CHECKLIST

Logistics	SPECIFICATIONS	BY WHOM	BY WHEN	DONE
✓ Agenda developed				
✓ Modules developed				
✓ Hand out materials				
✓ Audio– visual materials				
✓ Guest speakers selected				
✓ Guest speakers materials				
✓ Pre-Training materials				
✓ Invitations prepared/issued				

✓ Invitation's response				
✓ Final participants list				
✓ Venue selected/booked				
✓ Accommodation				
✓ Per diem				
✓ Transport				
✓ Equipment				
✓ Supplies				
✓ Evaluation forms				
✓ Training report				
✓ Follow-up issues				

SAMPLE 3: Using a Scheduling Software

RIP –Albania has experience organizing training/workshops and other events such as the ones organized for the Ministry of Transport and Telecommunications, the Ministry of Territorial Adjustment and Tourism, the Public Procurement Agency, etc. All of these events have used an scheduling software (MS Project) to record and keep track of the logistics. The schedule is used to record all the necessary steps required for preparations; deadlines; human resources, materials necessary, and various notes to handle the workshop. The following is an example, of preparations that took place to organize the Public Procurement workshop on July 2-3, 2002.



NOTE. SAMPLES 1,2 AND 3 are only examples. You may decide to use your own paper and pencil checklist or any other method that is convenient for you. What is important is that you take the time to plan and take care of all the logistics involved in the training to facilitate its delivery without any delays or problems.

PART 4: CONDUCTING the TRAINING

This section of the handbook discusses two important issues dealing with conducting the training: a) the logistics and b) the delivery of the information. It provides specific directions on delivering information when the following techniques are used: Lectures, group discussions, brainstorming and case studies. .

Taking care of the Logistics of the Training:

Your main task when conducting the training is to make sure that the training is being delivered as planned without interruptions, delays, or problems. You will need to do a lot of advance planning to be well prepared to conduct the training as planned. On the previous section you learned some methods of dealing with the logistics of the training activity. You should use your own techniques or the techniques discussed in the previous section to organize the logistics..

Remember that, no matter how well a training event is designed, if it is not properly delivered it will not produce the expected results, therefore, in this step you concentrate in orchestrating the best delivery of the training..

Make sure you understand the logistics of the training, keep track of all the resources needed, make sure they are available and in sufficient quantities, make sure that the equipments (slide projector, screen, flip chart) are in working order prior to the training. You may want to ARRIVE EARLY to ensure the room is ready, (chairs and tables arranged, presentation materials, name tags, audiovisual equipment,) and be present at the training room at least one hour before starting the activity to check the last minute details and find alternatives in case of problems.

Delivering the Information

The second critical element in conducting the training is the effective delivery of information. Following are directions on how to deliver information when the following techniques are used: Lectures, group discussions, brainstorming and case studies. .

Lectures:

This is a popular way to present information since it is easy to design and implement. When giving your lecture it is helpful to organize the presentation as follows:

-
1. **INTRODUCTION:** Set the stage for the talk. Get attention at the beginning. Tell what you intended to cover by stating your objectives clearly. Tell why they should listen what's in it for the listener? Relate the message to the listener's situation
 2. **THE BODY** of the message should present the information logically and directly. Be factual, convincing, use quotes and examples. Divide your talk into two, three, or four points. Aim at the knowledge level of the average member of the group. Stick to the subject.
 3. **CONCLUSION** summarize the main points. State what you expect. Perhaps an appeal for action. Relate the positive outcome that might be expected as a result of your idea.

Group Discussions:

When utilizing group discussions your main role is to be a good facilitator. As such, you should:

- (i) Be an active listener. As a good facilitator you have to show interest in what people have to say. You have to listen closely enough to summarize or paraphrase what is said, to pick up on the direction of discussions, and to detect underlying attitudes or judgments. Active listening is key to all facilitation skills.
- (ii) Be observant. As a good facilitator you have to notice group dynamics, including who is speaking and who is not, and how various groups of people interact. You have to use your observation to understand how and when different methods must be used to ensure that everyone has the opportunity to participate.
- (iii) Set the group climate. As a facilitator, you have to play an important part in developing the climate of the group. You should make sure that group members have become acquainted with one another. This needs to be done early in the session. You have to be informal and build a warm and friendly attitude toward all group members encouraging their participation.
- (iv) State the Question. By clearly phrasing the question to the group, you can focus the group's attention on its basic task and purpose, as a well-stated question stimulates constructive and creative group participation. As a good facilitator you can use specific questions to start, focus and deepen the learning of participants. Consider that a simple "Why?" is often enough to move a discussion to a deeper level. "Who?", "What?", "When?", "Where?", and "How?", are all good questions for bringing out details.
- (v) Be flexible. As a good facilitator you have to respond to the needs of participants and be willing to adapt or change your methods, tools and questions in order to respond to such needs.
- (vi) Be organized. As a good facilitator you have to be well organized. You have to well-prepare in advance all the necessary materials and logistics, so that people do not lose time and become frustrated.

(vii) Be knowledgeable but clear. As a good facilitator you should be knowledgeable, able to communicate in simple statements and ask focused questions. You have to speak in plain language and not use fancy words or jargons.

(viii) Be assertive but not controlling. As a good facilitator you have to know when to intervene during discussions and when to stay quiet. You should focus on mobilizing the knowledge of the participants and provide guidance when the tasks are unclear or when the discussions start to lose focus.

(ix) Encourage group participation. As a facilitator you can encourage group participation by:

Keeping aware of individual's efforts to be heard and providing them an adequate opportunity to contribute.

Helping the group understand the meaning and intent of individual contributions.

Maintaining continuity of group discussion by pointing out the relationship of similar ideas offered by different group members.

Encouraging inter member discussion rather than member-facilitator discussion

Conveying acceptance by exhibiting a non-critical attitude by refraining from evaluating member contributions.

Preventing anyone from monopolizing the discussion. Don't rely on group members who are always articulate and eager to talk. Try to bring in those who aren't talking by making them feel that the group would welcome their contribution. Call on people by name when you know that they are trying to participate or when you are sure that they won't be embarrassed by being called upon.

Keeping the discussion on the subject. Some diversions may be fruitful, but only in so far that they can be related to the main topic.

(x) Test for group consensus. The facilitator can assist the group in developing consensus by occasionally reviewing points developed during the discussion and by summarizing what appears to be the group's conclusion.

(xi) Summarize the group conclusions and ideas. At the end, review and reinforce the learning that you intended to draw from discussions. Be careful, do not give answers or give personal opinions as facts during the discussion or this will decrease your impartiality, and thereby decrease participants ability to hear your summary.

Case Studies:

As in group discussions, your role in case studies is also to be a facilitator. As such you should:

Make sure that the case study starts with the identification of what you want participants to learn. Make sure that a situation, tasks, and time period are selected that will include all the aspects you want participants to consider.

Consider that after participants have read the materials and made their analysis, you lead the group discussion to draw out the basic lessons.

Have the small groups discuss the materials initially and report to the large group as a means of beginning the large group discussion.

C. Brainstorming

Brainstorming is another group activity in which you serve as a facilitator. As such you should: Go around the room and give each person the opportunity to articulate at least one idea referent to the issues being discussed.

Encourage an enthusiastic, uncritical attitude among brainstormers

Make sure that the ideas presented are recorded on a flip chart and that all ideas are included.

Do not evaluate ideas until the group moves to the evaluation phase.

Guide the discussion to help the group evaluate the ideas and come up with common consensus or practical solutions.

Reinstate the problem is the trainees are having problems coming up with ideas

Summary of the role of the facilitator in case study, brainstorming and group discussion.

For the three activities listed above, the facilitator role can be summarized as follows:

introduces purpose of the tool to be used;

organizes/divide groups of participants;

ensures active participation by all group members and all groups, and

listens and asks probing questions

helps the group reach consensus and practical solutions.

Selects recorders and reporters if needed.

Note: On Recorders and Reporters

When working with groups you might find useful to use group members to record and report on the activities taking place in the group. The use of recorders and reporters helps large group work more effectively. The role of recorders and reporters are:

Recorders:

**take detail notes on the issues presented and discussed by participants
make notes about group dynamics (including who is participating and who is not),
and the comments people make while participating or observing.**

Reporters

- a) consider that you are representing a group;**
- b) be as consistent as possible with group findings/recommendations/ and suggestions.**
- c) pay attention to the discussion of any group member**
- d) be prepared to answer questions that are addressed to your group**

Section 5: TRAINING EVALUATION

In this section of the handbook we complete Step 5. We will concentrate on the evaluation of the training event, and give suggestion on how to design evaluation forms. Two sample evaluation forms are included as samples.

Definition of a Training Evaluation

Evaluation is a planned process that provides specific information about a selected session or program for purposes of determining its effectiveness. The evaluation of training is usually focused on: (i) Content and Scope; (ii) Instructional Methods; and (iii) Participants reaction and suggestions.

Evaluation of a training event, should take two forms:

First, the trainer should evaluate whether the objectives of the training have been met. This can be done by observations of the trainees, or if a more objective evaluation is required, through an oral or written examination that assesses whether the trainees are able to demonstrate what they have supposed to have learned during the training.

Second, the training event, should be evaluated by the trainees. Trainee evaluation of the program is necessarily more subjective, but it is an important vehicle for trainee feedback to the trainer regarding whether the techniques being used are effective and how the training is was received.

Designing an Evaluation Form

The best evaluation activities are usually the ones that are designed for an specific training event. The evaluation form does not have to be a complicated document, but the right questions must be asked to get the information that is needed.

When designing an evaluation activity, the following recommendations should be considered:

Be clear about the goals and purposes of the evaluation

Be specific about what is being evaluated

Be specific about the data that will be collected,

Be clear regarding how results will be used.

Be specific in formulating the questions

Focus and prioritize on what is worth evaluating-you can't do or look at everything.

The evaluation format should be simple enough to complete, but detailed enough to provide valuable feedback to the trainer.

Time should be scheduled during the training program for the participants to complete the evaluation form. As you want 100% completion of the evaluation forms, just schedule it as part of the training.

Trainee evaluations should be anonymous, so they feel free to constructively criticize.

Evaluation Samples

Below we are samples of two evaluation forms. Sample No 1, was used to evaluate the Public Procurement Workshop organized by RIP-Albania on July 2-3, 2002. Sample No. 2, was used to evaluate a training session by getting feedback from the trainees.

Practice developing your own evaluation forms and very soon you will have a nice toolkit for your training events!

Evaluation Form Sample No. 1

Evaluation Form Public Procurement Workshop July 2-3, 2002 Tirana, Albania					
Part 1. Workshop Content and Structure					
I. Workshop Topics					
Please circle the number that best represents the usefulness of each topic.					
	Poor	Adequate	Good	Very Good	Excellent
Session 1: Albanian Legislation and its changes.	1	2	3	4	5
Session 2: PPA and its clients: how do they communicate	1	2	3	4	5
Session 3: RIP Consultant's findings	1	2	3	4	5
Session 4: Presentation of Cases	1	2	3	4	5
Session 5: Group Discussion	1	2	3	4	5
Session 6: Question and Answer.	1	2	3	4	5
Session 8: Participants training needs	1	2	3	4	5
II. Instructional Methods					
Please circle the number that best represents the usefulness of the instructional methods.					
	Poor	Adequate	Good	Very	Excellent
Presentations by instructors/trainers	1	2	3	4	5
Case studies, real-life examples	1	2	3	4	5

Course materials, handouts	1	2	3	4	5
Questions and answer periods (formal and	1	2	3	4	5
III. Logistical Support					
Please circle the number that best represents the quality of the logistical support.					
	Poor	Adequate	Helpful	Very Helpful	Excellent
General Information	1	2	3	4	5
Briefing/orientation	1	2	3	4	5
Booz-Allen support staff	1	2	3	4	5

Part 2. Program Scope and Content
What were your workshop goals?
Were your goals fulfilled? If Yes, please explain how each goal was fulfilled. If No, Yes No please explain why not?
Did you acquire the necessary knowledge through this activity? If Yes, please describe. Yes No
What was the most beneficial part of this workshop? Please describe.
Do you think that you have changed any of your previous thoughts on procurement laws, rules and guidelines, as a result of what you learned during this workshop?

<p>Would you propose any other form of organizing such type of workshops? Please explain.</p>
<p>What other main issues would you like to be treated in future trainings. Which issue of your knowledge on procurement would you like to strengthen more?</p>
<p>Additional comments.</p>
<p>Thank you for your time in completing the evaluation!</p>

Evaluation Form: Sample No 2

TRAINING FEEDBACK FORM – INDIVIDUAL SESSION

SESSION TITLE: _____
DATE: _____ **TIME** _____
INSTRUCTOR(S) _____

To the Participant:

During the training we will be evaluating the participants reactions to all the individual sessions. Your feedback is important and valuable as we plan to use this information to make sure the training is responding to the needs of the participants. We want to thank you in advance for your cooperation.

Your instructor.

Rate your feedback by circling the number using a six point scale where 1 is lowest and 6 is highest.

How relevant and useful was this particular training session for you.

(Low) 1 2 3 4 5 6 (High)

The learning environment was appropriate for learning

(Low) 1 2 3 4 5 6 (High)

Today’s participant handouts and materials were available and provide the information necessary to understand the session.

(Low) 1 2 3 4 5 6 (High)

The content of this session was appropriate for my level of computer and professional experience.

(Low) 1 2 3 4 5 6 (High)

The time allotted for this session was appropriate.

(Low) 1 2 3 4 5 6 (High)

The presentation was clear and informative.

(Low) 1 2 3 4 5 6 (High)

I believe I did comprehend the objectives of this session.

(Low) 1 2 3 4 5 6 (High)

This session related directly to my current job.

(Low) 1 2 3 4 5 6 (High)

Please add any other observation/suggestions or comments you may have about this session. We particularly appreciate comments that will help us improve the training activities.

Appendix A:**Characteristics of Adult Learning**

Adults feel and act autonomously, they want to be seen by others as independent and self-directed. Adults can help diagnose their learning needs and plan and implement activities to respond to those needs. Ideally this is accomplished through a process of assessing the knowledge and experience gaps that remain between the competencies they have and the competencies they want.

Adults have a great amount and variety of accumulated life experiences. Adult's experiences can become a learning reservoir for others; adults can and do instruct each other out of their own experiences all the time. Past experiences offer a foundation upon which new learning can be built.

In addition to independence and experience, adult learners can be differentiated by their orientation to learning. Adults learn in order to immediately apply the knowledge to some aspect of their lives. Adult learning is problem centered rather than subject centered.

Adults are characterized by motivation - the readiness to learn. Learning is most effective when a person is ready to learn.

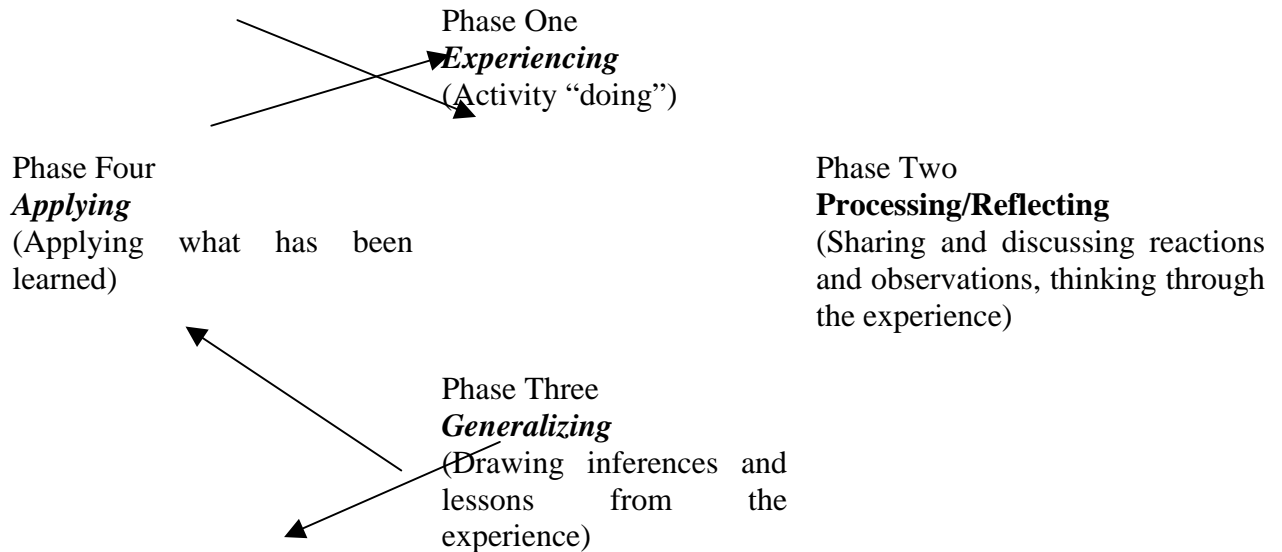
Adults can recognize the way they learn best (Learning style). Adults can say: I learn best by reading....., I learn best by hearing....., I learn best by doing....

APPENDIX B:

Learning Through Experience

An individual acquires an experience when he/she engages in an activity, reviews the activity critically, abstracts some useful insight from the analysis, and applies the results in a practical situation, in his/her particular environment.

You as an individual acquire experiences following a cycle:



Experiencing is the initial activity and the data-producing phase of the cycle.

In a Public Procurement Workshop organized by the Regional Infrastructure Program in Albania, participants were from various public and private procurement entities. Participants were asked to provide typical case studies they faced during their experience with procurement. Through the case studies presented, participants had the opportunity to interpret their experience as for example the specific sectors’ difficulties to comply with the law; purchases from the origin of production; handling procurement in emergency cases; various cases with open tenders; requests for qualifications; cases when winners provide minimal values; limited tenders with two candidates; Join-Venture conditions for qualifications, etc. While cases were presented, participants could find similarities with their own experience, and draw generalizations from them.

The processing phase is a crucial step in the experiential learning cycle. During this phase individuals share with each other the specific experiences that they had during the previous phase.

During the Public Procurement Workshop, participants were divided into three groups. Each group had a facilitator and a reporter. Each group member had the opportunity to contribute by sharing their experiences, providing their reasons for coming to certain conclusions, analyzing certain cases, and providing suggestions. Facilitators kept the discussions focused, controlled the timing, each member's contribution, and made sure that the reporters recorded critical points of discussions.

C. Generalizing involves drawing inferences from the themes and issues identified during the previous phases. During this phase, the individual has the opportunity to identify similarities between the new experiences and previous experiences they can site from the “real world”.

After providing their opinions and suggestions in the discussion groups, participants were asked to identify similarities between the training sessions and real life experiences, and made generalizations on topics discussed. They provided suggestions and recommendations for solutions. Each group findings were generalized and prepared for presentation into the plenary session, where a larger group had the opportunity to share their experiences.

D. Applying can be defined as a relatively stable change in behavior. It helps to modify future behavior. The individual draws upon insights and conclusions reached during the learning process, and incorporate the new knowledge into their lives by developing more effective behavior or actions.

Group findings and recommendations from each group were summarized into a document, which is presented to the Public Procurement Agency for further considerations to solve issues faced during the implementation of procurement legal and sub legal acts.

APPENDIX C:

Characteristics of a Good Trainer

In overall, your role as a Trainer is:

You as a trainer have to maintain two primarily roles:

Serve as a technical expert;

Serve as a facilitator.

As a technical Expert, you have to:

deliver technical information;

be prepared to answer questions;

be objective;

speak clearly

As a facilitator, you have to:

create learning environments that are stimulating, relevant, and effective;

help trainees to think critically;

help trainees to conceptualize their experiences, so they can draw conclusions and generalizations;

Encourage the active involvement of all trainees;

Promote an atmosphere of cooperation among trainees;

Provide linkages between individual training sessions and other parts of the training program;

Assist trainees in mentally making such linkages themselves;

Encourage trainees to constantly relate training experiences to “real-life” situations;

Direct trainees toward materials and human resources that will enhance their learning after the training;

Serve as a resource and facilitator of the trainee to acquire knowledge and skills.

Appendix D: Planning Scheme

	<i>WHY</i> The Rational	<i>WHAT</i> The Objective	<i>HOW</i> Way of doing	<i>WHOM</i> Trainees	<i>WHEN</i> Timing	<i>WHO</i> Responsibility
Training Needs Assessment						
the Training Planning & Design						
Conducting Training						
Training Evaluation						

Kurs Trajnimi

TITULLI: Trainim i Trajnerëve për Punonjësit e Aqjensisë së Prokurimit

DATA: 7 Tetor, 2002 (Dita e Parë)

VENDI: Hotel "GRAND", Tiranë

NUMRI I PJESEMARRESVE: _____

Nr.	EMRI, MBIEMRI	INSTITUCIONI	TEL/FAX/E-MAIL
1.	Cneta Fajria	APP.	
2.	Elchiod Dilka	A.P.P.	
3.	Merida Zepaj	A.P.P.	
4.	Integim Mome	A.P.P.	
5.	Ilir Demitaj	A.P.P.	
6.	Lizeta Zhupa	A.P.P.	lizeta-zhupa@hotmail.com
7.	Evis Shehu	A.P.P.	evisshehu@hotmail.com
8.	Alma Miuo	A.P.P.	almamio@yahoo.com
9.	Aida Shekulli	A.P.P.	221918
10.	Ervin Xhaferi	A.P.P.	er-xhaferi@hotmail.com
11.	ASJAL ALIU	A.P.P.	0682243765
12.	Alma Dima	A.P.P.	
13.	ANILA JANINA	A.P.P.	0682138855 gjojanina@hotmail.com
14.	Behar Zemeli	Jr. A.P.P.	0682031726
15.	Franklin Aeli	A.P.P.	
16.			
17.			
18.			
19.			
20.			

TRAIN THE TRAINERS

**TRAINING FOR PUBLIC
PROCUREMENT AGENCY STAFF**

GRAND HOTEL
Tirana October 7- 9, 2002

FIRST DAY
October 7, 2002

09:00 - 09:15	Opening remarks and Presentation of the Program
09:15 -10:00	SESSION 1: The Four steps of the Training Process
10:00 -10:15	<i>Break</i>
10:15 -11:00	SESSION 2: Training Needs Assessment
11:00 – 11:15	<i>Break</i>
11:15 – 12:00	SESSION 3: How to Write Training Objectives

SECOND DAY October 8, 2002

09:00 - 09:45	SESSION 4: Planning a Training Session
09:45 -10:00	<i>Break</i>
10:00 -10:45	SESSION 5: Effective Ways to Prepare and Deliver Information
10:45 – 11:00	<i>Break</i>
11:00 – 11:45	SESSION 6: Effective Ways to Work with a Group

THIRD DAY October 9, 2002

09:00 - 09:45	SESSION 7: Conducting a Training Session
09:45 -10:00	<i>Break</i>
10:00 -10:45	SESSION 8: Evaluating a Training Session
10:45 – 11:00	<i>Break</i>
11:00 – 11:45	SESSION 9: Evaluating a Training Course
11:45 – 12:00	Training evaluation and Delivery of Certificates

3.2. Lectures on Procurement



United States Agency for International Development

BALKANS REGIONAL INFRASTRUCTURE PROGRAM FOR WATER AND TRANSPORT

Lecture on European Procurement

20 November, 2002



Booz | Allen | Hamilton
Louis Berger Group

PROCUREMENT

Lecture Objectives

- Exposure to other form of procurement used in Europe
- Show the conditions of contract available from FIDIC
- Illustrate the concepts presented via case study
- Stimulate the dialog about procurement within PPA

PROCUREMENT

Lecture Overview

The Funding Market Place
Project Cycle
The Procurement Process
Pre – Planning
Procurement Planning
Procurement Procedures
Procedures
Bid Planning
Bidding
Bid Evaluation
Contract Administration
Project Closeout
A Case History

8

PROCUREMENT

Two major components

- 1. Financing**
- 2. Acquiring the specified works, goods or services**

4

THE FUNDING MARKET PLACE

WORLD BANK GROUP includes

- **International Bank for Reconstruction and Development (IBRD)**
- **International Development Association (IDA)**
- **International Finance Corporation (IFC)**
- **IMF International Monetary Fund**
- **MIGA Multilateral Investment Guarantee Agency**
- **ICSID International Center for Settlement of Investment Disputes**

The World Bank procurement has already been covered in a previous lecture

5

THE FUNDING MARKET PLACE

- **EUROPEAN INVESTMENT BANK (EIB)**
- **EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT (EBRD)**
- **EUROPEAN COMMISSION (EC)**

Provides aid programmes for Albania

- **PHARE**
- **CARDS**

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THE FUNDING MARKET PLACE

- Italian Cooperation
- Islamic Bank
- USAID
- USTDA (Not for design or construction)
- OPEC FUND

Private Sector Financing Options

- BOT Build-Operate-Transfer
- BOOT Build-Operate-Own-Transfer
- PFI Private Funding Initiatives

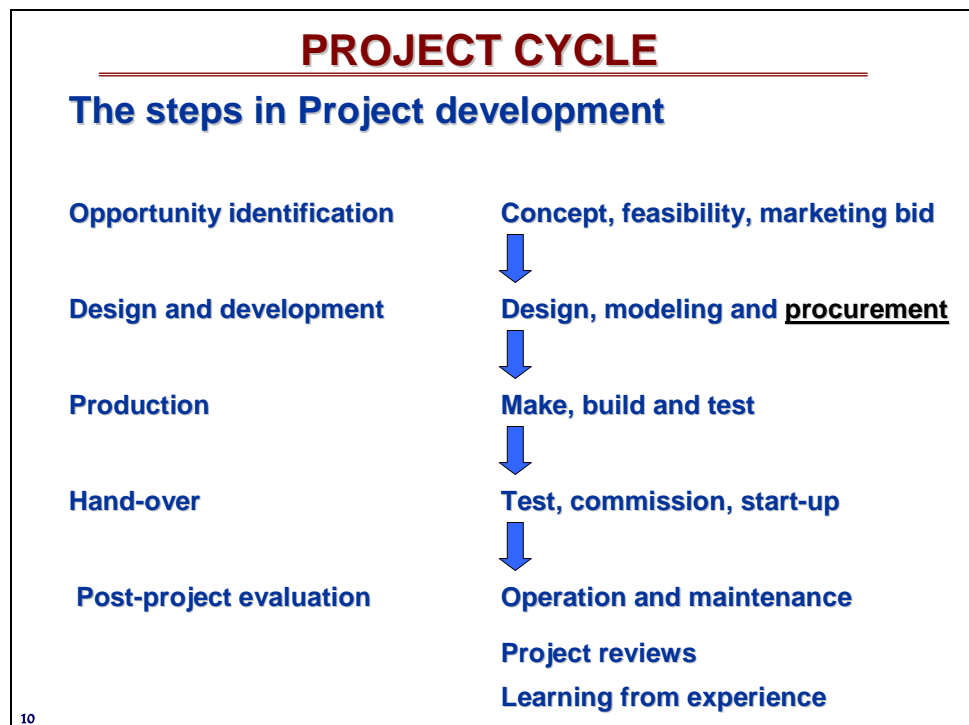
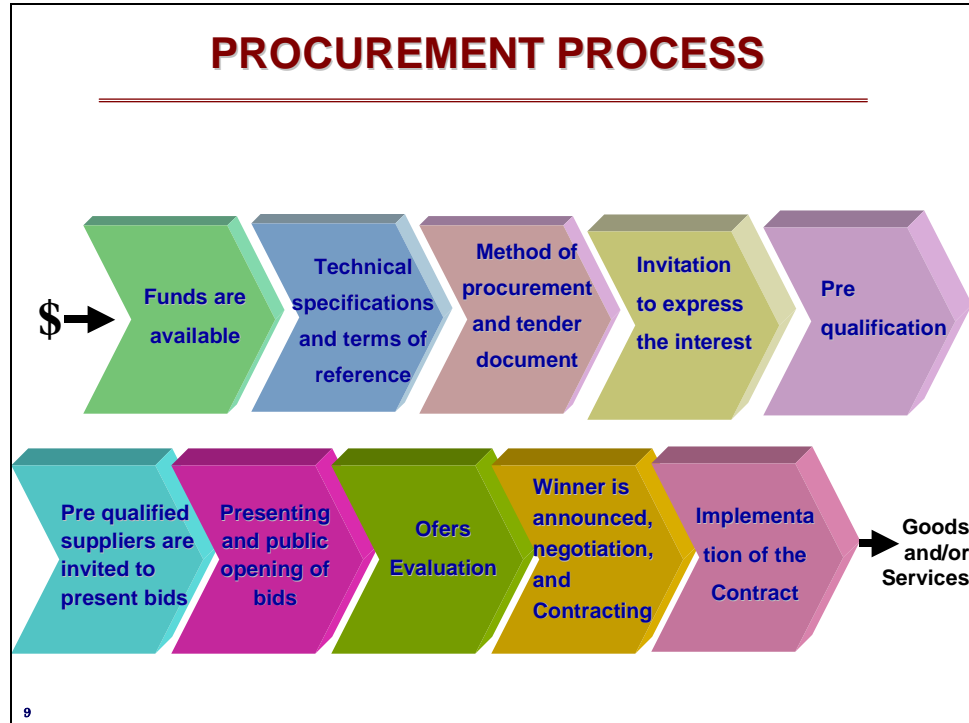
7

PROCUREMENT

Two major components

- 1. Financing**
- 2. Acquiring the specified works, goods or services**

8



THE PROCUREMENT PROCESS

Procurement is part of the process in the development of a Project – it is not the project.

- **Includes**

- Pre - Planning
- Procurement planning
- Bid planning
- Bidding
- Bid evaluation
- Contract administration
- Contract close-out

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PRE-PLANNING

- **Determine and identify the Project with estimates of funding required**
- **Determine funding availability**
 - Generally similar
 - Each funding agency have own procedures
 - World Bank procedures already addressed
- **Differences in certain details**
 - World Bank restricted to members of the Bank
 - EC (PHARE & CARDS restricted to European contractor's and suppliers)
 - EIB & EBRD open internationally
 - EIB do not allow 7.5% domestic preference

The following will address EIB procedures (www.eib.org)

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PROCUREMENT PLANNING

There are many different approaches to procurement and its procedures.

- **International Procurement**
 - **Open Procedures**
 - **Restricted Procedures**
 - **Negotiated Procedures**
- **National Competitive Procedures**
 - **National Competitive Bidding**
 - **Local Shopping or Direct Contracting**
 - **Force Account**
- **Consultancy Services**
 - **Open Procedures**
 - **Restricted Procedures**
 - **Negotiated Procedures**

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PROCUREMENT PLANNING

At each step Bank’s “no-objection” must be sought and received before proceeding.

EIB classifies procedures to be followed as:

- **International Procurement**
 - **Procedures derive from EC directives**
 - **Generally used for public sector contracts, including public authorities, utilities, public undertakings**

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PROCUREMENT PROCEDURES

Open procedures

- **Most common form for public contracts**
- **Strict requirements for international notification**
- **Publication in Official Journal of the European Communities (OJEC)**
- **Allows all interested parties to submit bids**
- **Clear and comprehensive bidding documents**
- **Fair and transparent bidding, evaluation and award procedures**

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PROCEDURES

Restricted procedures

- **Recommended for large or complex contracts**
- **International notification including publication in OJEC**
- **Selection of candidate by pre-qualification**
- **Only invited parties may participate in bidding**

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PROCEDURES

Negotiated procedures

- **Where complex contract does not allow full definition of technical standards**
- **The nature of the works, services or risks do not allow overall pricing**
- **Selection by international notification including publication in OJEC**
- **Allows negotiation of contract and terms**

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PROCEDURES

National Competitive Procedures

For small contracts that do not fall under EC directives

- **National Competitive Bidding**
 - **Where by the size, nature or scope unlikely to attract foreign competition**
 - **Follows normal procedures of country**
 - **Bidding documents in national language**
 - **National currency generally used**
 - **Bidding prices are normally inclusive of all duties and taxes**

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PROCEDURES

● Local Shopping or Direct Contracting

- For procuring available off-the-shelf goods or commodities of small value
- Offers from at least three suppliers required
- Direct Contracting allowed if only one contractor or supplier can fulfill contract
- Allows negotiation of prices and conditions with local contractors.

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PROCEDURES

● Force Account or Direct Labour

- Not usual as it involves the borrowers own labor and equipment.
- Allows for in-house services, research & development, etc.

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PROCEDURES

Consultancy Services

For value of contract exceeding 400,000 euro

- **Open procedures**
 - **Strict requirements for international notification for expression of Interest**
 - **Publication in OJEC**
 - **Allows consultant or expert to submit proposals for services required.**

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PROCEDURES

- **Restricted procedures**
 - **International notification including publication in OJEC for Expression of Interest**
 - **Selection of candidate by pre-qualification**
 - **Only invited parties may submit proposals**

For contractual value less than 400,000 euro

- **Negotiated procedures**
 - **Publication not required**
 - **Selection may be made with party selected by the borrower, from past experience, professional contacts or register of experts compiled by professional associations, World Bank, and the EC.**

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BID PLANNING

If **restricted procedures** are selected the following is required:

Pre-qualification Documents

Factors to be specified normally and to be considered include:

- Experience on similar contracts
- Past performance on previous contracts
- Claims and litigation history
- Capabilities with respect to:
 - Personnel
 - Equipment
 - Construction and/or manufacturing facilities
- Financial position

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BID PLANNING

Bid Documents

Any internationally recognized standard procurement document may be used such as:

- **Master Procurement Documents and User Guides issued by:**
 - Multilateral Development Banks and IFC – obtainable on the web at www.worldbank.org
 - FIDIC (Federation Internationale des Ingnieurs-Conseils) can be ordered on the web at www.fidic.org

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BID PLANNING

Bid Documents


- **Standard Conditions of Contract for:**
 - Construction
 - Plant and Dredging
 - Turnkey
 - Short Form
 - Civil Works
 - Electrical & Mechanical
 - Design-Build & Turnkey


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Contracts and Agreements


Contracts (old series)

International Federation of Consulting Engineers






Civil Works
Red Book



Electrical &
Mechanical
Yellow Book



Design-Build &
Turnkey
Orange Book

FileOpen encrypted PDF versions of FIDIC contracts and agreements can be incorporated into legal documents. This is NOT the case for PowerDoc versions.

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Contracts and Agreements
Contracts (new series)

International Federation of Consulting Engineers

Construction
Plant & DB
EPC/Turnkey
Short

Guide – Construction, Plant & DB, EPC/Turnkey
New Contracts in Power doc. Not for use in contracts

27

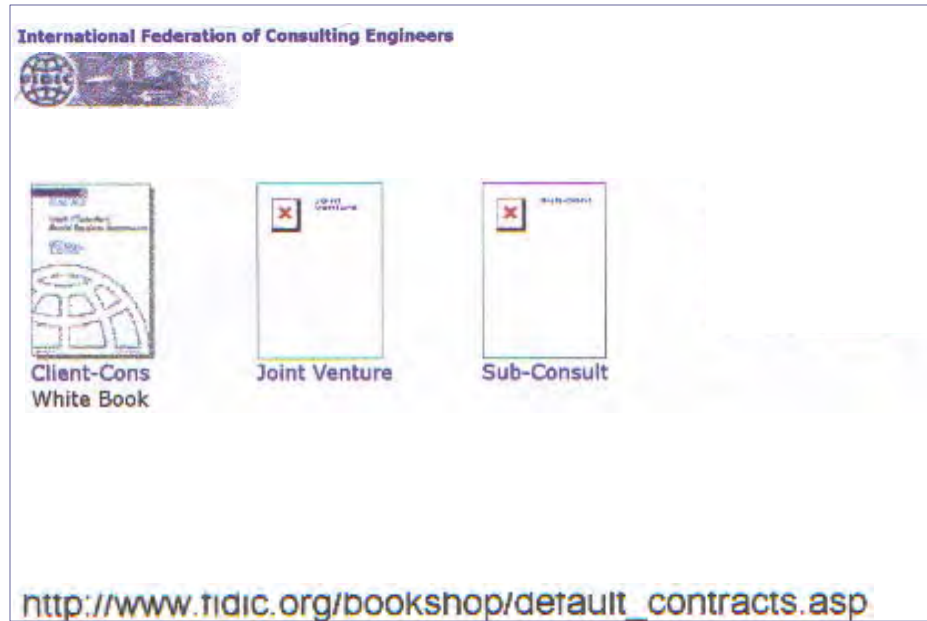
BID PLANNING

Bid Documents

- **Agreements**
 - **Client – Consultant**
 - **Joint Venture**
 - **Sub-Consultant**

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Agreements



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BID PLANNING

Bid Documents

- **Bidding Documents should include**

Prepared by Procurement Office/Specialists

Contractual Documents including:

- Invitation to Bid
- Instructions to Bidders Forms of Bid, Bid Security, Performance Bond and Advance Payment Guarantee
- General Conditions of Contract
- Conditions of Particular Application

Prepared by Consultants:

- Technical Specifications
- Bill of Quantities (as necessary)
- Technical Drawings (as necessary) but reviewed by “procurement” office/specialists for consistency and integration with contractual documents

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BID PLANNING

Bid Documents

- Must not be restrictive and allow for wide international competition
- Should include provisions dealing with applicable law and settlement of disputes, for instance International Chamber of Commerce, UNCITRAL, or other international arbitrators
- Should allow sufficient time for Bidder to develop his bid.

Normally six weeks minimum.

Insufficient time will only lead to inflated bids or requests for extensions of the bid period.

Take account of local conditions – a large part of Europe is on holiday during August, therefore longer time may be needed.

For instance crane manufacturers were pre-qualified

Bid Documents sent in August to short-listed manufacturers

Some declined

Others asked for extension of time

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BID PLANNING

Bid Documents

- Statement required that Bidder should notify the Borrower and EIB in the event it is considered that certain clauses might limit international competition or introduce unfair advantage to some bidders
- The EIB require bid documents to be prepared in English
- For Technical Specifications
 - EC standards and specifications or international standards and specifications such as the International Organization for Standards (IOS).
 - Local standards giving equal or superior requirements will be acceptable.
 - If reference by trade mark is required it must also be specified that products with giving equal or superior requirements will be acceptable.
- Currency of bid may be a local currency or combination of currencies.

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BID PLANNING

Bid Documents

- **Evaluation criteria must be specified.**
Based on lowest price, or the most economically advantageous applying criteria relative to bid
 - Price
 - Payment provisions
 - Construction or delivery period
 - Technical performance, expertise and capability of bidder
 - Availability of service and spare
 - Operating costs
 - Maintenance costs, etc.

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BIDDING

- **No preference to be given to works, goods or services originating in the borrower's country.**
- **Modifications and/or clarifications made during the bid period must be notified to all bidders**
- **Bid opening must be transparent**
- **Name of bidder and amount of bid including conditions, discounts and variants must be read out and recorded in the Minutes of Bid Opening.**

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BID EVALUATION

- **Transparency must be absolute and means that all bidders must see:**
 - Selection is open, equal, and fair
 - Compliance with requirements of the “Instructions to Bidders” has been fully observed
 - All bid opening and evaluation procedures strictly adhered to and fully recorded.

Lack of transparency may lead to EIB refusing no-objection and stopping loan
- **No amendments to the bid or price after bid opening**
- **Bid evaluation to be only on criteria specified in Bid Documents**
- **Bid to be checked for compliance and responsiveness with**
 - administrative and financial requirements
 - technical requirements
 - and arithmetical errors corrected
- **Clarification may be sought from bidders to assess the bidding**

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BID EVALUATION

- **For Consultancy Contracts use “two-envelope” procedures:**



Envelope 1

Evaluate technical and method capability. Award score



Envelope 2

Evaluate price. Award score

Award contract to highest combined score

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CONTRACT ADMINISTRATION

- **Day-to-day management and supervision carried out by Construction Supervisor or Project Management Team**
- **Procurement involvement in preparation and issue of Variation and/or Change Orders**

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PROJECT CLOSEOUT

- **Claims – Settlement by**
 - negotiation
 - arbitration
- **Review cause of claims**
 - **Administrative**
 - Conditions of Contract
 - Conditions of Particular Application
 - **Technical**
 - insufficiency of design
 - ambiguity of specifications
 - unforeseen site conditions
 - **Quantities**
 - conflicts in payment provisions
 - gross under/over measurement in Bill of Quantities

88

PROJECT CLOSEOUT

- **Review Contractor's performance**
 - technical capability
 - maintenance of program
 - claims
- **Review Consultant's/Supervisor's performance**
 - Management of Works
 - was project delivered to budget and on time
 - Claims
- **Learn by experience.**
 - Bid/Contract Documents should improve leading to fewer claims
 - Experience with Contractor may, in the extreme, lead to his being restricted

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A CASE HISTORY

15km of road and two 300m bridges in West Africa

- **Contractor arranged funding**
 - Guaranteed by the Export Credit Guarantee (ECG) of the United Kingdom (UK)
 - Guarantee required 60% content from UK sources
 - Repayment provisions were in the form of Promissory Notes Issued by the Government
 - ✓ 25% payable in cash on issue
 - ✓ 25% payable at end of year 1
 - ✓ 25% payable at end of year 2
 - ✓ 25% payable at end of year 3
 - Notes were negotiable, at a discount, at commercial banks

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A CASE HISTORY


- **Original design was for the bridges to be in concrete**
 - Contract Documents, Specifications Bills of Quantities prepared for this design
 - Design found not to meet ECG requirements
- **Design changed to steel bridges which was accepted by ECG**
 - Contract Documents not changed
 - Specifications and Bill changes did not fully cover design changes
- **Continuous arguments, monthly, between Contractor and Engineer on how to pay for what.**
 - Effectively Contract was being negotiated as construction proceeded

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A CASE HISTORY

- **Insufficiency of design where road 2 km of crossed a swamp.**
 - Embankment was not sufficiently high for adequate drainage
 - Contractor to minimize Defects Liability proposed raising the embankment
 - Proposed splitting cost with Client
 - Engineer would not accept – Contractor refused to accept Liability
- **Result of the above**
 - Claims exceeding the value of the contract
 - Completion delayed by 1 year
 - Contractor suffered cash flow problems because of the credit payment provisions

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United States Agency for International Development



**BALKANS REGIONAL INFRASTRUCTURE
PROGRAM FOR WATER AND TRANSPORT**

Lecture on Albanian Procurement

14 November, 2002

Booz | Allen | Hamilton

PROCUREMENT

Lecture Objectives

- **Enhance participant's knowledge on Public Procurement Procedures**
- **Participants exposure to an overview of the Albanian Public Procurement Practices**
- **Stimulate the dialog about procurement among participants**

2

PROCUREMENT

Lecture Overview

- I. PUBLIC PROCUREMENT BACKGROUND**
- II. PROCUREMENT PROCES**
- III. RECOMMENDATIONS**

8

PROCUREMENT

I. PUBLIC PROCUREMENT BACKGROUND

- > HISTORICAL CONTENTS
- > MODEL LAW ON PUBLIC PROCUREMENT
- > POLICY OBJECTIVES OF PUBLIC PROCUREMENT
- > BASIC PRINCIPLES ON PUBLIC PROCUREMENT
- > INSTITUTIONAL ASPECTS OF PUBLIC PROCUREMENT
- > MEASURES TO SATISFY PUBLIC DEMAND COST EFFECTIVELY
- > PUBLIC VERSUS PRIVATE PROCUREMENT
- > FUNCTIONS OF CONTROLLING BODIES
- > OBJECTIVES FOR THE PROCURING ENTITY
- > LACK OF ADHERENCE TO PROCUREMENT REGULATIOS MAY BE CAUSED BY:

4

HISTORICAL CONTEXT

**OVER THE LAST 100 YEARS
THERE HAVE BEEN INCREASES IN:**

- **Government Spending**
- **Public Procurement Legislation**
- **Private Sector Participation**
- **Competition among National Companies**

14

MODEL LAW ON PUBLIC PROCUREMENT

Should contain :

- **General Provisions**
- **Definitions of Procurement Methods**
- **Description of Tender Processes for:**
 - **Goods**
 - **Constructions**
 - **Services**
- **Procedures for Alternative Methods of Procurement**
- **Review of Procurement Decisions**

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POLICY OBJECTIVES OF PUBLIC PROCUREMENT

ECONOMY EFFICIENCY

- *Economy does not necessarily mean Cheapest Price*
- *The Value for Money is summarised in 5 Rights:*
 - *the RIGHT Quantity*
 - *of the RIGHT Quality*
 - *at the RIGHT Price*
 - *for the RIGHT Place*
 - *at the RIGHT Time*

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BASIC PRINCIPLES ON PUBLIC PROCUREMENT

- *Non-discrimination*
- *Transparency*
- *Accountability*
- *Promotion of domestic industry and employment*

Transparent and efficient public procurement systems which:

- *will also help foreign capital and access to loans and development grants*
- *give foreign and domestic companies to compete on fair and equal terms of government business*

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INSTITUTIONAL ASPECTS OF PUBLIC PROCUREMENT

The major concerns for any government in the field of public procurement are commonly related to the following objectives and tasks:

- to ensure a correct application of the public procurement law or regulation through the establishment of a central procurement organisation for control and support
- to develop effective systems for assessment of needs and priority- and decision-makings regarding budget allocations addressed to procurement purposes.
- to establish well functioning policies and regulations for procurement organisation and procuring authority at contracting levels

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INSTITUTIONAL ASPECTS OF PUBLIC PROCUREMENT

- to create efficient external and internal audit and management control systems for pre- and post review of procurement operations, contracts and disbursements.
- to allow for fair complaint and challenge procedures
- to establish supporting, indirect legislation, e.g. contract law and administrative laws
- to develop systems and organisational concepts for co-operation and co-ordinated purchasing among procuring entities to take advantage of the collective purchasing power within the public sector.

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MEASURES TO SATISFY PUBLIC DEMAND COST EFFECTIVELY

- **SATISFY LEGITIMATE REQUIREMENTS OF:**
 - Public Buyer
 - Private Supplier
 - General Public
- **MODERNIZING PUBLIC PROCUREMENT SYSTEM REQUIRES ACTIONS AT THREE LEVELS:**
 - Legislative
 - Administrative
 - Judicial
- **EMPHASIZING KEY MANAGEMENT CONCEPTS AND VALUES:**
 - Responsibilities
 - Professionalism
 - Transparency
 - Competition

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PUBLIC VERSUS PRIVATE PROCUREMENT

- | | |
|---|---|
| <ul style="list-style-type: none"> ● Acquisition made with the use of formal procurement procedures ● Extensive and complicated regulatory framework for the procurement process ● The tender is the focus and ultimate basis for the award ● Communications and negotiations prior to the award decisions rarely practised | <ul style="list-style-type: none"> ● Supply and demand in the marketplace help determine the most appropriate method. ● Rules and regulations are set up within the companies which may lead to more flexibility and simplicity ● Total performance, economy and quality- are crucial factors for the award decision ● Negotiations with potential suppliers normally practised prior an award decision |
|---|---|

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PUBLIC VERSUS PRIVATE PROCUREMENT

- | | |
|--|---|
| <ul style="list-style-type: none"> ● Lack of long term regularity in business operations Often "a winner takes all" situation whenever a requirement is competed ● Formal market information mechanisms. Announcements in newspapers. ● Personal contacts and relations must be subordinated for objectivity. | <ul style="list-style-type: none"> ● Partnership with long term relationships with a close interaction between suppliers and purchasers ● The selection of potential suppliers is based on market knowledge and experience. When using tendering procedures, invitation for tenders without advertising ● Personal contacts and confidence factors of vital importance |
|--|---|

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FUNCTIONS OF CONTROLLING BODIES

FUNCTIONS	CONTRIBUTION TO IMPROVED PROCUREMENT
>Development of standard procurement documents	<ul style="list-style-type: none"> ●Familiarises buyers and bidders with procurement regulations and set of contract conditions ●Improves efficiency of the procurement process ●mistakes caused by case-by-case approach ●Avoid mistakes caused by case-by-case approach
>Guidance, training and advice	<ul style="list-style-type: none"> ●Supports procurement activities ●Improves professionalism of procurement staff
>Central source of information	<ul style="list-style-type: none"> ●Provides co-ordinated information
>Statistical information	<ul style="list-style-type: none"> ●Identifies trends ●Measures performance of contracts resulting from a procurement process ●Improves efficiency

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OBJECTIVES FOR THE PROCURING ENTITY

- **IMPROVE VALUE FOR MONEY**
- **OBTAIN A CORRECT IMPLEMENTATION OF THE PROCUREMENT REGULATIONS**
- **REDUCE THE RISK OF IMPROPRIETY**
- **IMPROVE THE EFFICIENCY OF PROCUREMENT OPERATIONS**

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LACK OF ADHERENCE TO PROCUREMENT REGULATIONS MAY BE CAUSED BY:

- **Insufficient political will to enforce the regulations**
- **Regulations which are antiquated or whose language is obscure, vague or equivocal**
- **Lack of discipline among staff**
- **Lax controls and control mechanisms**
- **New regulations that are not widely known**
- **Poor working conditions and facilities**

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PROCUREMENT

II. PROCUREMENT PROCESS

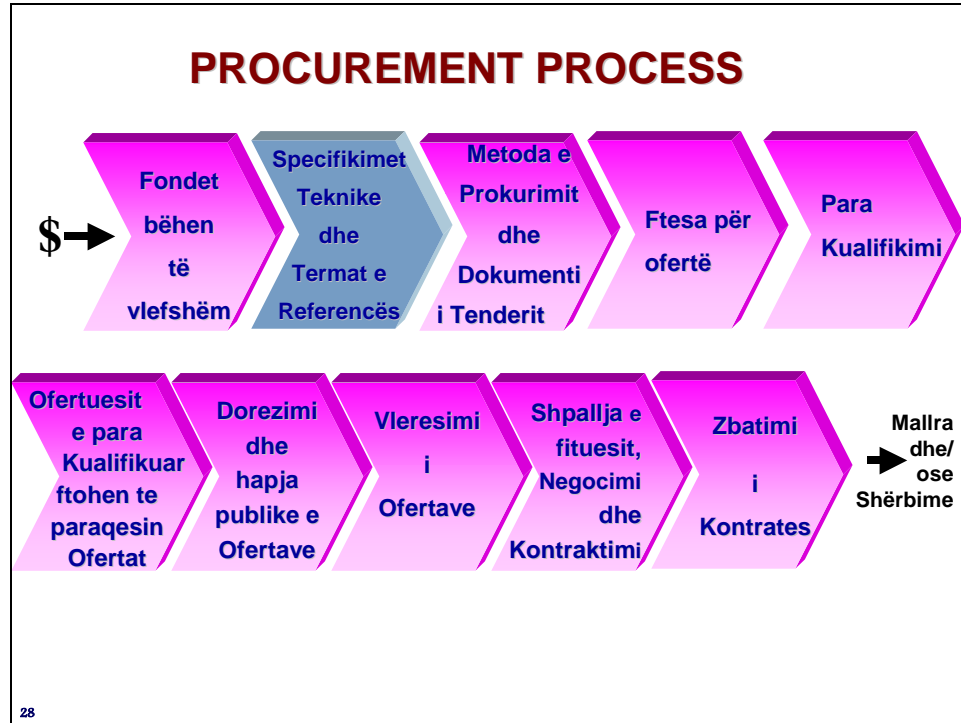
- FUNDS ARE AVAILABLE
- TECHNICAL SPECIFICATIONS AND TERMS OF REFERENCE
- METHOD OF PROCUREMENT AND TENDER DOCUMENTS
- INVITATION TO TENDER
- PRE QUALIFICATION
- PRE QUALIFICATION SUPPLIERS ARE INVITED TO PRESENT TENDERS
- PRESENTING AND PUBLIC OPENING OF TENDER
- EVALUATION OF OFERS
- WINNER IS ANNOUNCED, NEGOTIATION AND CONTRACTING
- IMPLEMENTATION OF THE CONTRAC

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PROCUREMENT PROCESS



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TECHNICAL SPECIFICATIONS AND TERMS OF REFERENCE

TECHNICAL SPECIFICATIONS FOR GOODS

1. Technical specifications with reference to standards

- Characteristics
- Function
- Dimensions and composition
- Performance
- Safety
- Environmental requirements

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TECHNICAL SPECIFICATIONS AND TERMS OF REFERENCE

TECHNICAL SPECIFICATIONS FOR GOODS

- 2. Delivery conditions**
- 3. Inspection and testing**
- 4. Quality and guarantees**
- 5. Installation and mounting**
- 6. After sales service and maintenance**
- 7. Spare parts**
- 8. Information material and manuals**
- 9. Training**

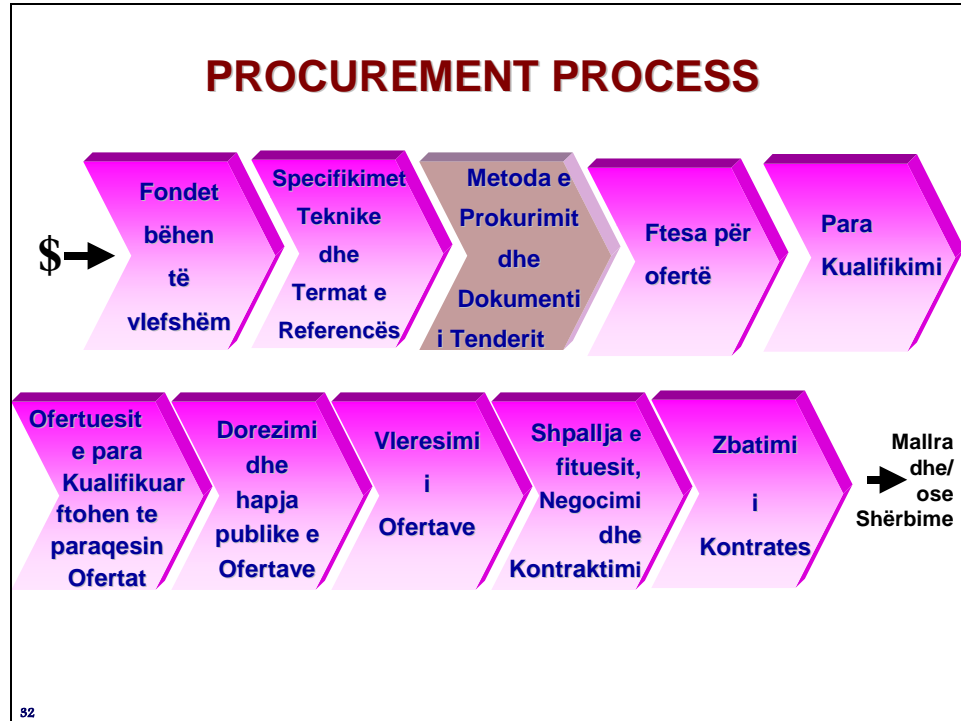
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TECHNICAL SPECIFICATIONS AND TERMS OF REFERENCE

Terms of Reference for services

- 1. Background information**
- 2. Objectives of the Contract**
- 3. Scope of work**
- 4. Expected outputs**
- 5. Performance and required inputs**
- 6. Time schedule, period of performance**
- 7. Proof of general suitability, qualifications and experience of the supplier**
- 8. Methodology and criteria for evaluation of proposals**
- 9. Evaluation system**

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METHOD OF PROCUREMENT AND TENDER DOCUMENT

CORRECT CHOICE OF PROCUREMENT PROCEDURE

- Open tendering- the preferred method
- Other procurement methods

The principal rule is that no contract for goods, services or works may be split up or in any way arranged with the intention of avoiding the application of any of the formal procurement procedures

- preparation of tender documents
- tender opening
- tender evaluation
- negotiation (where applicable)
- drafting, review and signature of the contract acceptance by the successful tenderer

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METHOD OF PROCUREMENT AND TENDER DOCUMENT

- **procuring entity**
- **nature of the procurement contract**
- **the area of application for the product**
- **consumption statistics**
- **what is to be procured in addition to the product**
- **data on completion**

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METHOD OF PROCUREMENT AND TENDER DOCUMENT

Evaluation of tenders regarding goods

- **Evaluated price**
- **Cost of spare parts**
- **Operating and maintenance costs**
- **Availability of installation and after-sales services**
- **Performance and productivity of the equipment offered**
- **Standardisation and safety**
- **Environmental effects**

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METHOD OF PROCUREMENT AND TENDER DOCUMENT

Evaluation of tenders regarding works

- price
- period for completion
- running costs
- profitability
- technical merits
- environmental impact

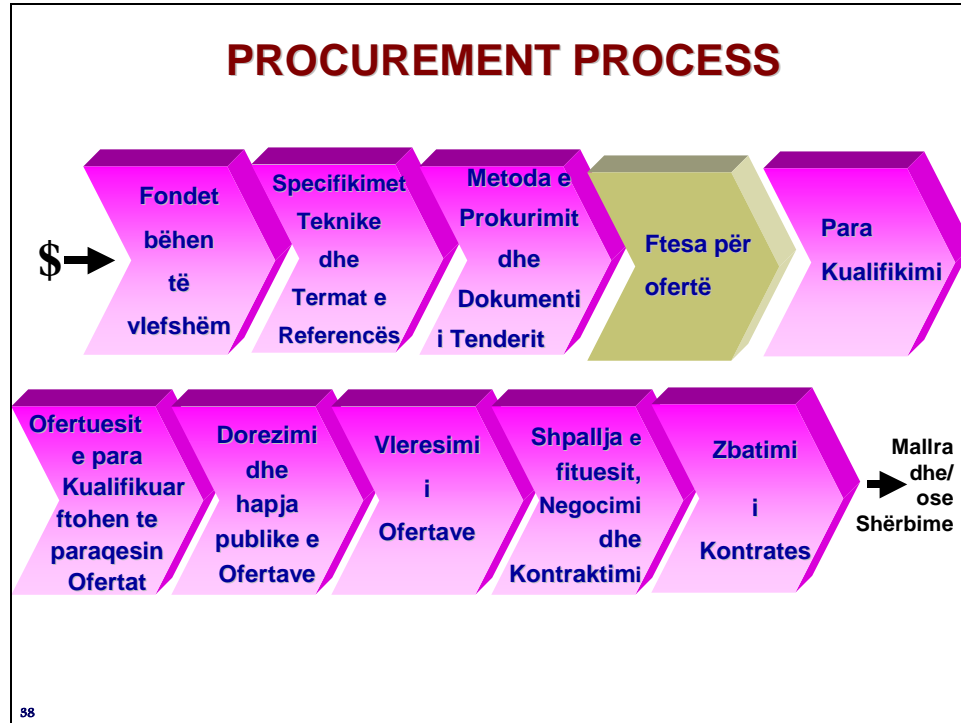
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METHOD OF PROCUREMENT AND TENDER DOCUMENT

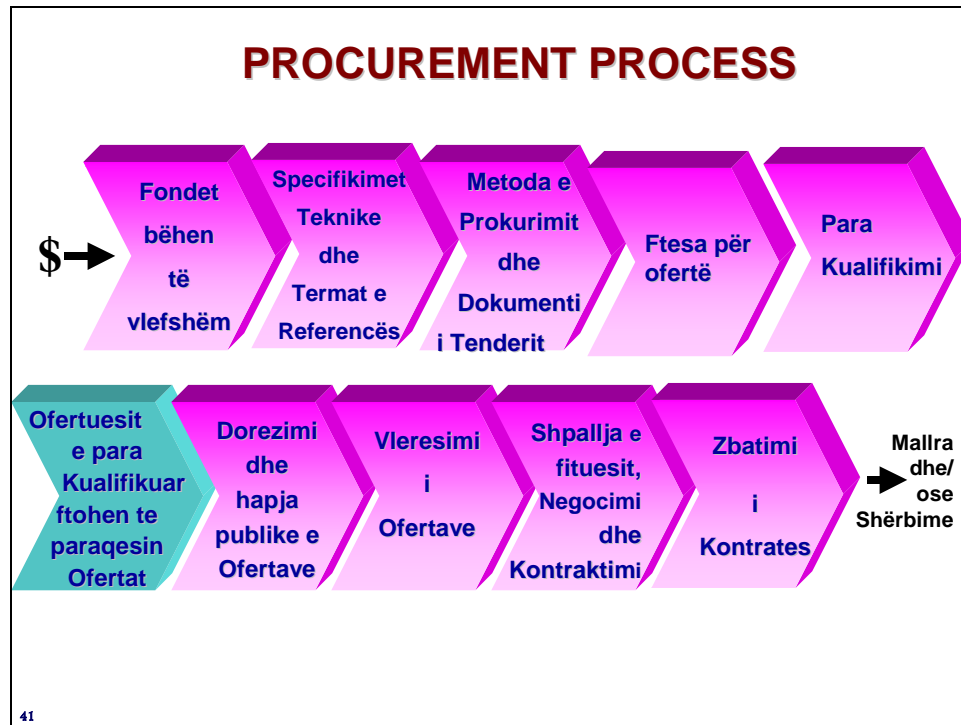
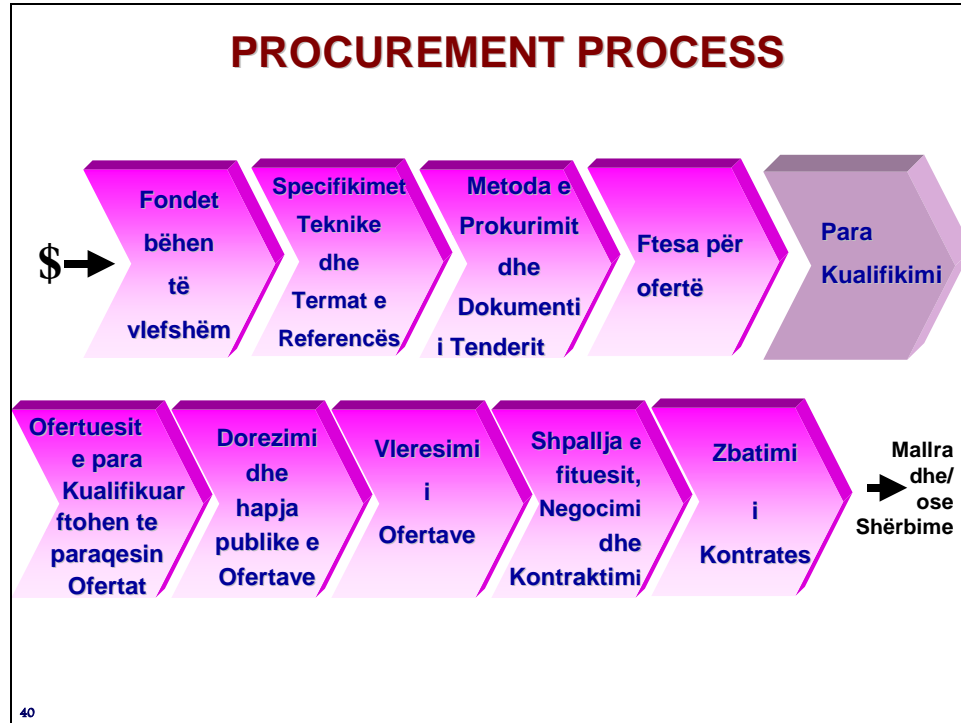
Evaluation of proposals regarding services

1. The proposal with the *lowest price* among those tender proposals exceeding the threshold value, or
2. *The economically, most advantageous tender*, which is the proposal with the best combined ranking value of both non-price criteria and the price.

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- ### INVITATION TO TENDER
-
- Access to prior project information
 - The choice of procurement procedure
 - Access to products or services meeting the technical specifications
 - Economic value of the tender
 - Composition of packages
 - Sufficient time for tender preparation
 - Terms and methods of payment
 - Size and value of tender and performance securities
 - Delivery time and terms
 - Incidental services
 - Fairness of contract terms
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PRE QUALIFICATION

This information can be obtained through various sources:

- Economic information prepared by the tenderers themselves, e.g. annual reports
- References issued by bankers, insurance companies on their relationship with their respective tenderers
- Use of specialised agencies in the sector, e.g. Credit reform
- A database of the procuring entity on the relationship with the suppliers in previous contracts
- Final judgement should be based on all sources available

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PROCUREMENT PROCESS



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PRESENTING AND PUBLIC OPENING OF TENDERS

CANCELLATION OF PROCUREMENT PROCEEDINGS

- The prerequisites for the procurement proceedings have changed substantially during the evaluation and award process.
- Less than three tenders have been determined substantially responsive

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PROCUREMENT PROCESS



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EVALUATION OF OFFERS

Bear in mind, that those criteria used by a procuring entity to determine a tenderer`s general suitability, or financial and technical ability for a satisfactory completion of a future contract, may not be interlinked with the criteria used for evaluation of the tender itself.

Principles for the award of contract

- 1) either the lowest price only,
or
- 2) the economically, most advantageous tender

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PROCUREMENT PROCESS



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WINNER IS ANNOUNCED, NEGOTIATION AND CONTRACTING

CONTRACT AWARD PROCEDURE

- **Notification of award**
- **Preparation of the Contract Document**
- **Information on Results of the Tender**
- **Signing of contract**
- **The effectiveness of the contract**
- **Failure to sign a contract**
- **Administration of Contracts**

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WINNER IS ANNOUNCED, NEGOTIATION AND CONTRACTING

CONTRACT AWARD PROCEDURE

- **Post-qualification**
- **Principles for contract awards**
 - lowest evaluated price.
 - economically, most advantageous tender
- **Disclosure of information**

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WINNER IS ANNOUNCED, NEGOTIATION AND CONTRACTING

CONTRACT AWARD PROCEDURE

Conducting Negotiations

- after stage one of the Two-stage Tendering - in order to discuss and identify the technical project proposal the prices have to be tendered for within stage 2
- for the Direct Procurement - negotiations are allowed on all technical and commercial aspects of the tender received in order to identify the most economical solution for contracting
- in case of a request for proposals with the preferred tenderer.

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PROCUREMENT PROCESS



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IMPLEMENTATION OF THE CONTRACT

CONTRACT MONITORING AND SUPERVISION

- *Project Management*
- *Acceptance of Goods, Construction and Services*
- *Reporting*
- *Accounting*

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IMPLEMENTATION OF THE CONTRACT

HANDELING OF CLAIMS

Performance problems might effect the

- **timely execution of the project**
- **cost and resource aspects**
- **quality of the procurement other requirements of the project (violations of governing law, ...)**

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PROCUREMENT

III. RECOMMENDATIONS

- **ROLE OF PPA**
- **ETHICAL ASPECTS OF PUBLIC PROCUREMENT**

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RECOMMENDATIONS

I. Role of PPA

- **Procurement law advice to procuring entities**
- **Supervision and monitoring**
- **Procurement and tendering services**
- **Procurement information**
- **Public Procurement Development**

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RECOMMENDATIONS

II. ETHICAL ASPECTS OF PUBLIC PROCUREMENT

The following violations must be avoided:

- Arrange the composition of a tender in such a way that one may avoid the application of tendering procedures above certain threshold and instead use more simplified procedures, including direct contracting.
- Design the technical specifications or Terms of reference with the intention to favour a certain product or service or to exclude potential bidders.
- Include award criteria in the tender evaluation which are totally irrelevant to the actual procurement and evidently discriminatory towards certain suppliers.
- Misuse of non-open tendering procedures, such as request for quotations or direct procurement
- Design of contract arrangements with the obvious intention to favour a certain supplier
- Accept false information and misleading documentation from tenderers
- Manipulate the decision-making process, facilitated by a significant lack of efficient routines, smooth co-operation within the procurement unit and sufficient control mechanisms

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United States Agency for International Development

**BALKANS REGIONAL INFRASTRUCTURE
PROGRAM FOR WATER AND TRANSPORT**

Lecture on Procurement

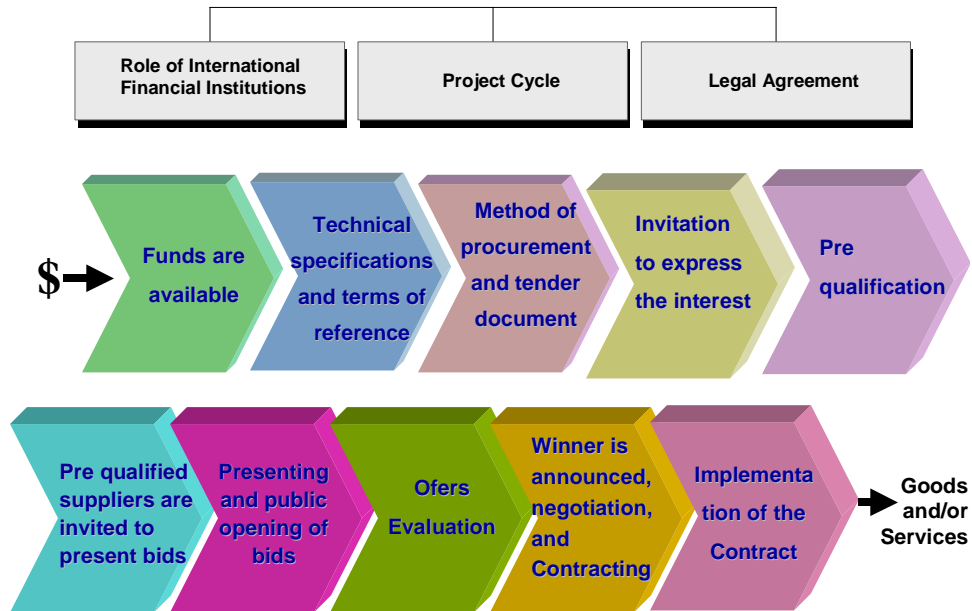
24 – 25 Tetor, 2002

Booz | Allen | Hamilton

PROCUREMENT IN THE PROJECTS FINANCED BY THE WORLD BANK

- I. **ROLE OF THE INTERNATIONAL FINANCIAL INSTITUTIONS**
- II. **PROJECT CYCLE**
- III. **LEGAL AGREEMENT**
- IV. **PROCUREMENT PROCESS**
- V. **PROCUREMENT OF GOODS AND CIVIL WORKS**
- VI. **SELECTION OF CONSULTANTS**
- VII. **CONTRACT AND ITS IMPLEMENTATION**

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8

The role of International Financing Institutions, financing mechanisms and limitations

1. DESCRIPTION

2. FUNCTION

3. WORLD BANK AND ITS ORGANISMS

4. FORM OF FINANCING AND ITS LIMITATIONS

4

The role of International Financing Institutions, financing mechanisms and limitations

1. DESCRIPTION

- **International organizations aiming to finance development projects and to provide technical assistance on economical and institutional reforms.**
- **World Bank**
- **European Bank for Reconstruction and Development**
- **United nations Agencies**
- **International Monetary Fund**
- **PHARE**
- **Others**

5

The role of International Financing Institutions, financing mechanisms and limitations

2. FUNCTION

- **To land money**
- **To provide Advice and Technical Assistance**
- **To serve as a accelerant of investments stimulation in the developing countries.**

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The role of International Financing Institutions, financing mechanisms and limitations

3. WORLD BANK AND ITS ORGANISMS

- International Development Association - IDA
- International Bank for Reconstruction and Development - IBRD
- International Financial Corporation – IFC

Albania's Position

- Member of the World Bank since 1992
- Member of IDA
- IDA and IFC are present in Albania
- Loans portfolio round US\$ 600 million

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The role of International Financing Institutions, financing mechanisms and limitations

4. FORM OF FINANCING AND ITS LIMITATIONS

IDA Credits and IBRD loans

- Administered by the same staff
- Projects should comply with the same criteria to be financially qualified
- Same procedures for goods and services procurement
- Same procedures for consultant's selection

8

The role of International Financing Institutions, financing mechanisms and limitations

Structures of financial planning

- National Investment Plan
- Strategies of Sectional Investments
- Special Projects

Project Objectives

- Needs fulfillment
- Elimination of obstacles for development
 - Materials
 - Human
 - Institutional
- Preservation of natural resources

Limitations

- Illegal counties – Are not members of the World bank: Andorra, Cuba, North Korea, Monaco, Nauru, Tuvalu, Litenshtejn
- Illegal counties – UNO Resolution: Iraq
- Local Taxes – Obligation of Borrower

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Project Cycle

- 1. IDENTIFICATION**
- 2. PREPARATION**
- 3. ANALYSES**
- 4. NEGOTIATION**
- 5. IMPLEMENTATION**
- 6. EVALUATION OF RESULTS**

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Project Cycle

1. IDENTIFICATION

- **Borrower and the Bank are included**
- **Beneficiaries, problems, requests are defined**

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Project Cycle

2. PREPARATIONS

- **Borrower's responsibilities**
- **Bank provides technical and financial assistance**
- **Studies (technical, financial, environmental)**
- **Specific duties**
- **Procurement plan and tender documents**
- **Staff and training**
- **Offices and equipment**

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Project Cycle

3. ANALYZES

- **Bank's responsibility**
- **Economic analysis, Country's Benefit, Poverty Alleviation**
- **Technical analyses**
 - **Cost evaluation**
 - **Implementation plan**
- **Institutional Analyses**
 - **Capacities for project's implementation**
 - **Training, staff needs**
- **Social Analyses**
- **PAD – Project's Evaluation Document, where are included Procurement Plan and Methods of procurement**

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Project Cycle

4. NEGOTIATIONS

- **Preparation of the Legal Agreement**
- **Presentations at the Bank's Executive Board of Directors**
- **Signing**
- **Efficiency**

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Project Cycle

5. IMPLEMENTATION

- **Borrower's responsibility (Government)**
- **Bank's Responsibility**
 - **Monitoring of the Progress**
 - **Advise**
 - **Guaranteeing that the loan is used for project's purpose**
 - **Guaranteeing that the procurement is economical, fair, and transparent**

6. EVALUATION OF RESULTS

- **Project's Final Report**
- **Auditing Report**
- **Analyses for preparation of future projects**

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Legal Agreement

- **Defines the rights and obligations between Bank and Borrower**
- **Is rectified with a special law in the Parliament**
- **Defines procurement procedures for goods, works and consultancy services**
- **Reference of World Bank Procurement Guidelines**
 - **International open tender and other methods**
 - **Preference for local producers**
 - **Bank's revision of the procurement decisions**
 - **Consultant's employment**

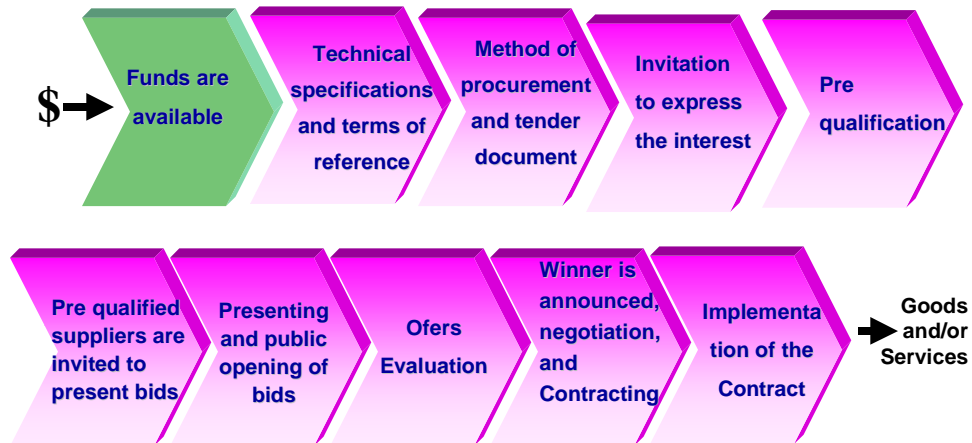
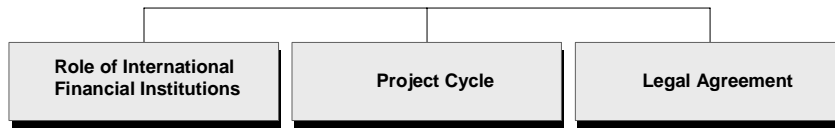
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Legal Agreement

Procurement Guidelines

- Define the Bank policy on procurement
 - Economic and efficiency needs
 - Equal opportunities for all
 - Encouraging the development of local industry
 - Transparency
- Accumulation of a longeval Bank’s experience
- Guideline for goods and works procurement
- Guideline for selection and contracting of consultants

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Procurement Process

PHASES OF PROCUREMENT PROCESS

- Identification and definition of goods, works and services
- Definition of Procurement Method
- Pre qualification
- Preparation of tender Documents
- Publication
- Questions and Clarifications on Tender Documents
- Offers Opening and Evaluation
- Contract's Signing
- Contract's Managing

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Procurement Process

PROCUREMENT PLANNING

- **Division**
 - Goods
 - Civil Works
 - Consultancy service
- **Definition of Procurement Packages**
- **What will be procured - Items, Quantities, Value**
- **How will be procured – procurement's Method**
- **When – Terms are defined in the form of a schedule**
- **Who – Responsible entities for procurement are defined**

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Procurement Process

DEFINITION OF PROCUREMENT STARTING TIME

- Based on the overall project implementation terms and sequences of each component
- Time calculations: administrative, production, circulation, and construction.
- Critical dates are planned for each package and periodically revised. A summary table is prepared
- Monitoring

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Procurement of Goods and Civil Works

1. PROCUREMENT METHODS

2. PHASES OF THE INTERNATIONAL OPEN TENDER

3. TENDER DOCUMENTS

4. OFFERS PUBLIC OPENING

5. EVALUATION PROCEDURE, EVALUATION REPORT

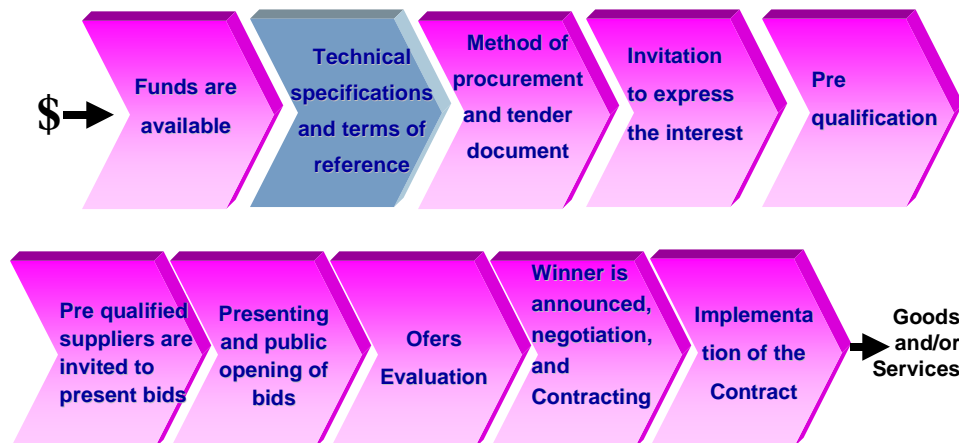
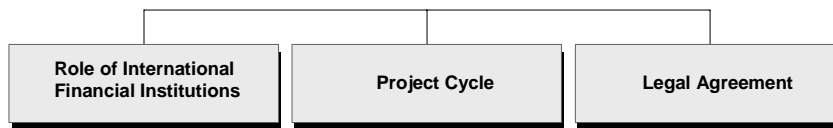
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Procurement of Goods and Civil Works

1. PROCUREMENT METHOD

- International open tender as a procurement base method
- Other procurement methods
 - International limited tender
 - National open Tender
 - National and International closed tender (shopping)
 - Direct Contracting
- Procurement methods and cases of their use are defined in the Credit Agreement

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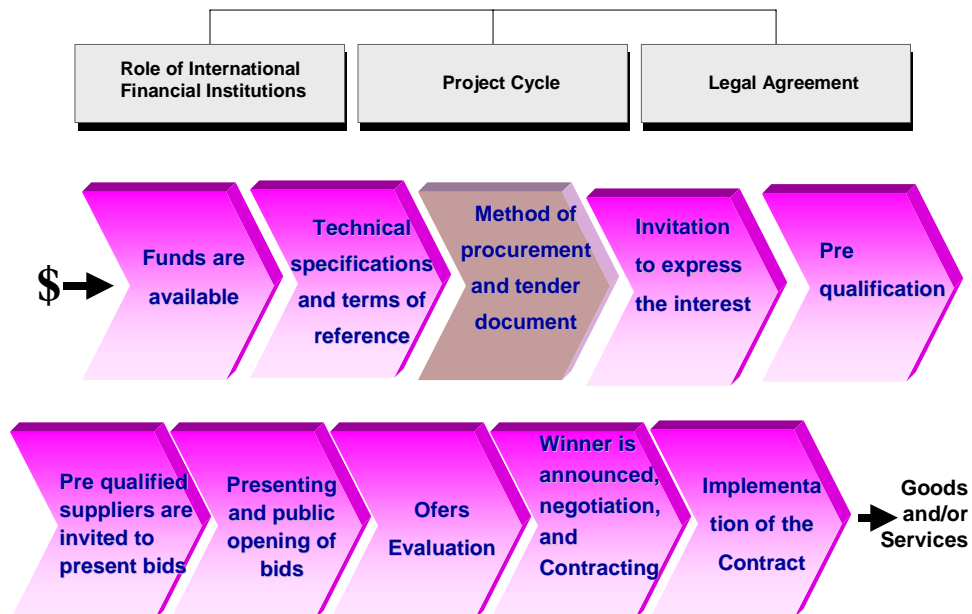
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Procurement of Goods and Civil Works

2. PHASES OF INTERNATIONAL OPEN TENDER

- Preparation of Technical Specifications/Terms of Reference
- Announcement
- Pre qualification (if planned)
- Launching of Tender Documents
- Issuing Offers
- Offers Public Opening and preparation of opening records
- Evaluation and Report of Evaluation
- Contracting
- Contract's Implementation

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Procurement of Goods and Civil Works

3. TENDER DOCUMENTS

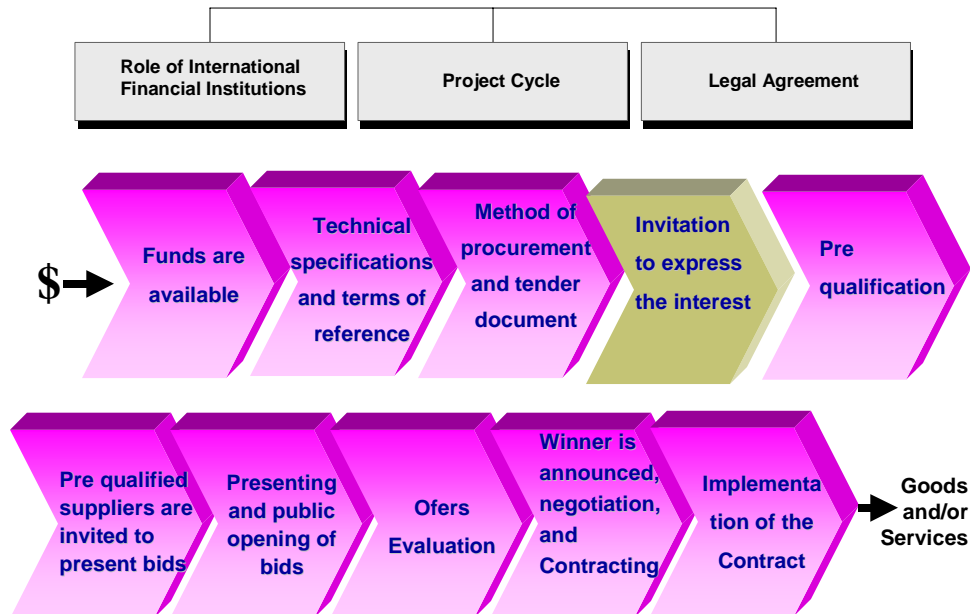
- **Objective**

- Guide bidders on the way of offers preparation and sending
- Describe goods and works to be procured
- Inform the supplier on the evaluation criteria
- Defines contract conditions

- **Components**

- Invitation for Tender
- Instructions for suppliers (standard)
- Specific data (flexible)
- General conditions (standard)
- Specific conditions (flexible)
- Technical specifications
- Standard forms

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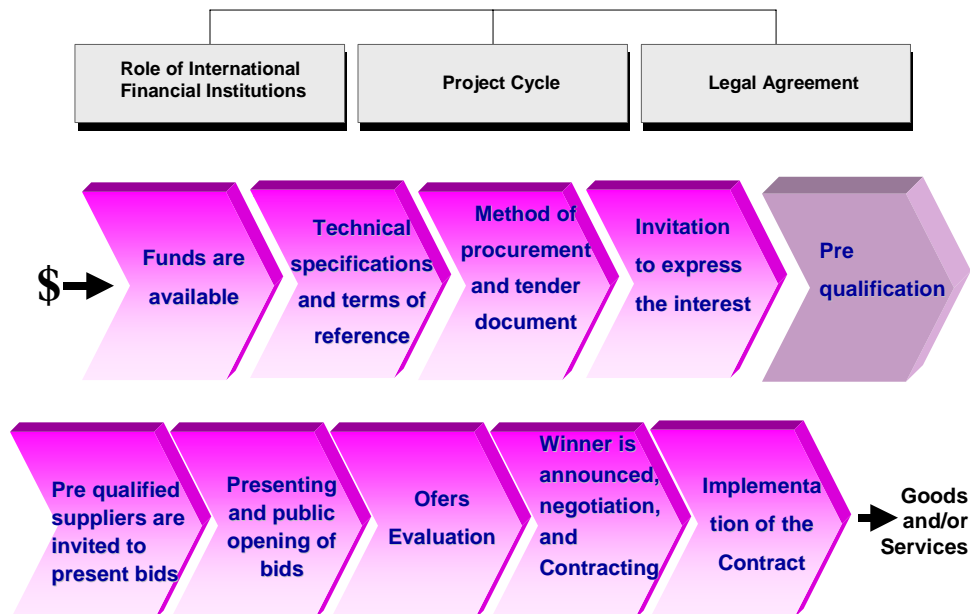
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Procurement of Goods and Civil Works

Invitation for Tender/Publication

- Precise definition of offers handing venue and time
- Request for qualification (when pre qualification is not applied)
- Description of goods or works to be procured
- Manner of tender document’s application and drawing
- Source of financing

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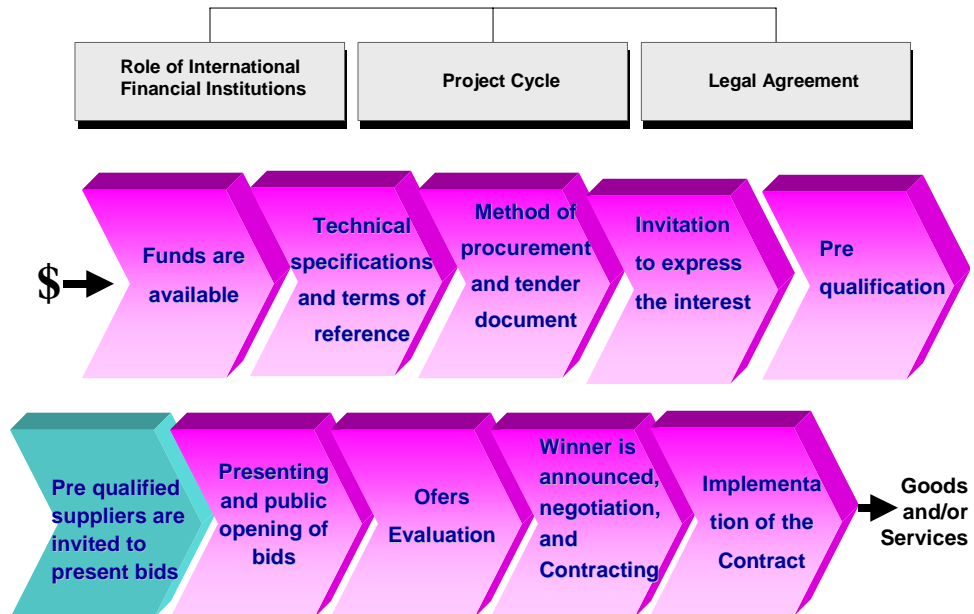
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Procurement of Goods and Civil Works

Pre Qualification

- Pre qualification of suppliers with technical and financial capacity to perform the contract
- Definition of Technical and Financial Criteria for pre qualification
- Technical Criteria:
 - Supplier's experience in similar contracts
 - Staff qualification
 - Capacities
- Financial Criteria:
 - Value of previous Contracts
 - Business annual turnover during the last 3 – 5 years
- Formulation of Short List

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Procurement of Goods and Civil Works

Instructions for suppliers

- Tendering cost is suppliers responsibility
- Clarifications regarding Tender Documents, meeting with suppliers before tender date. In site visit
- Language
- Offer's price and currency
- Opening of offers; venue and time
- Offer's guarantee
- Evaluation procedure
- Contracting

Offer's Price

- For goods: CIF/CIP/EXW according to INCOTERMS
- For works: Unit price or fix price.
The contract includes all payable taxes

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Procurement of Goods and Civil Works

Guaranties

- Offer's Guarantee
 - Should not be too high
 - 1 - 5 %
 - Fixed
- Performance guarantee
 - Guarantee period
 - 5 - 10 %
- Guarantee of advanced payment the same with paid amount

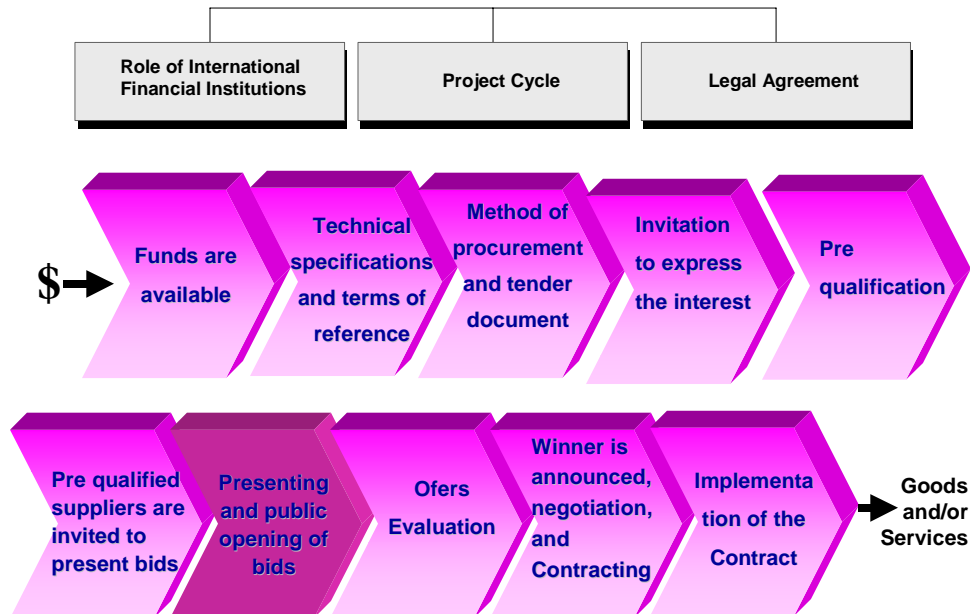
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Procurement of Goods and Civil Works

Standard Tender Documents

- Goods
- Public Works
- Pre qualification
- Supply and Installing
- Pharmaceutical productions
- Text Books
- Information Technology
- Evaluation Report

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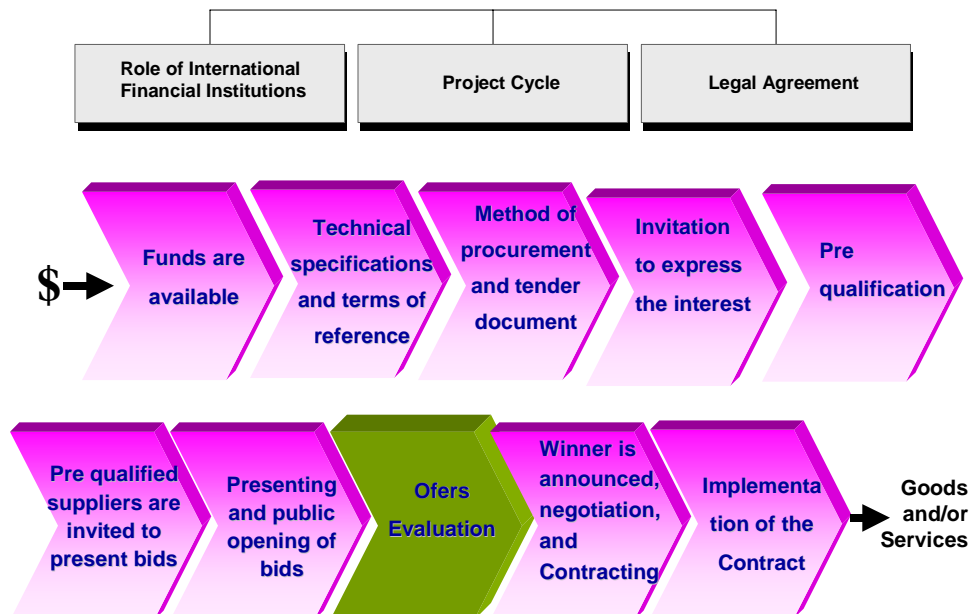
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Procurement of Goods and Civil Works

4. OFFERS PUBLIC OPENING

- Opening data and hour the same with that of offers submission
- Bidders are allowed to participate
- Name of bidder is publicly announced; price of offer
- Offers received after the submission deadline are turned back unopened
- Unopened offers are not considered for further evaluations

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Procurement of Goods and Civil Works

5. EVALUATION PROCEDURES, EVALUATION REPORT

- Purpose: To secure goods and services with the best economical cost
- Price is only one of the evaluation factors
- Tender Documents should define other factors despite price, and the way of application
 - Capacity and Productivity
 - Cost of operation
 - Time of circulation
 - Services and spare parts
 - Compatibility
- Other factors should be converted into monetary value, or into points and relative weight in the general evaluation

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Procurement of Goods and Civil Works

Evaluation Steps

- Tender Opening
- Preliminary assessment
- Cost comparison
 - Price
 - Price and commercial factors
 - Price, commercial and technical factors
- Offer evaluated as the lowest
- Post qualification
- Evaluation Report

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Procurement of Goods and Civil Works

Preliminary Assessment

- Complete and signed offer
- Offer's guarantee
- Typing mistakes
- Major deviations from tender requests

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Procurement of Goods and Civil Works

Unaccepted Deviations

- Offers submitted with delay
- Un signed offers
- Irregular offer's guarantee
- Unaccepted terms
- Unaccepted subcontracting
- Unaccepted applied law

Accepted Deviations

- Various terms of payment
- Alternative offers
- Responsibility limitations
- Compensation

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Procurement of Goods and Civil Works

Conversion into common currency for evaluation effects

- **Objective: to define the lowest value in a certain date**
- **Evaluation's currency: local or easily converted into USD EUR**
- **Exchange Rate: Official Source as Central Bank**
- **Converting date to be precisely defined in the tender documents**

Commercial Factors

- **Price: arrangements to make the offer prices comparable**
- **Circulation point: internal transportation is added**
- **Circulation time: correction coefficients for quick or late circulation**
- **Guarantee**
- **Terms of payment: Interest, discount**

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Procurement of Goods and Civil Works

Technical Factors

- **Operation Cost**
- **Fuel**
- **Training**
- **Maintenance Cost**
- **Standardization**
- **Life Cycle**
- **Capacity**
- **Productivity**

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Procurement of Goods and Civil Works

Evaluation for Civil Works

- Clarifications regarding offers (is necessary)
- Preliminary assessment as in the case of goods
- Correction of mistakes
 - Figures/words
 - Unit price/total
 - Decimals
- Converting into common currency
- Price comparison after the deduction of reserve fund
- Monetary value of quantifiable factors is added
- Un realized profit due to late completion of works is added

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Procurement of Goods and Civil Works

Offers Evaluation Report

- Reasons for disqualification of each offer
 - Received with delays
 - Un completed
 - Un responsible
- Commercial factors
 - Circulation
 - Completion date
 - Terms of payment
 - Guarantee
- Mathematical mistakes and corrections
- Conversion currency and official Exchange Rate
- Technical comparison: Each criteria listed and compared
- Comparison of responsible offers
 - Offer evaluated as the lowest
 - Post qualification of selected firm
 - Recommendation for Contract signing

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Selection of Consultants

- 1. SELECTION METHODS**
- 2. SELECTION BASED ON THE QUALITY AND COST**
- 3. QUALITY EVALUATION**
- 4. STEPS OF THE PROCEDURE FOR CONSULTANT'S SELECTION**

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Selection of Consultants

- 1. SELECTION METHODS**
 - Selection based on the quality and cost
 - Selection based on qualification
 - Selection based on limit fund
 - Selection based on the cost
 - Direct Contracting
 - Selection of individual consultants

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Selection of Consultants

2. SELECTION BASED ON THE QUALITY AND COST

- **Base method of consultant's selection**
- **Bases of selection**
 - Competition between predefined firms
 - Evaluation factors are: quality and price
- **The relative weight of factors in evaluation**
 - The weight of cost in evaluation is judged based on the nature of service
 - Quality factor usually receives 80 - 90 points out of 100 possible
 - Cost usually receives 10 - 20 points out of 100 possible, but no more than 30

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Selection of Consultants

3. QUALITY EVALUATION

- **Evaluation with points by a commission set up with experts from the field**
- **Base criteria and specific weight in evaluation:**

- Specific Experience of consultant	5 -10 pike
- Methodology	20 - 50 pike
- Main personnel	30 - 60 pike
- Knowledge transfer	0 - 10 pike
- Participation of local consultants	0 - 10 pike
- TOTAL	100 pike

Main criteria might be divided into sub-criteria for evaluation

The minimum of technical evaluation to be qualified at the financial evaluation is 70 - 80 points

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Selection of Consultants

4. PROCEDURAL STEPS FOR CONSULTANTS SELECTION

- **Publication**
- **Preparation of Short List**
- **Request for Proposal**
- **Submission and opening of the proposals**
- **Evaluation**
 - **Technical**
 - **Financial**
- **Negotiation and Contract signing**

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Selection of Consultants

Publication

- **Procurement general announcement – General expression of interest**
- **Procurement's special announcement for contracts above US\$ 200,000. Electronic announcement for other contracts**
- **Venue announcement**
 - **International newspapers with reputation**
 - **Local newspaper**
 - **Firms that have submitted general expression of interest**
 - **Embassies**
- **Time to respond not less than 30 days**

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Selection of Consultants

Short List

- **Are considered firms that have expressed interest**

- **Minimum 3, maximum 6 firms**

- **No more than two firms from the same country**

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Selection of Consultants

Request for Proposal

- **Invitation**
- **Information about Consultants**
 - **Standard part**
 - **Flexible part**
- **Standard forms for the preparation of technical and financial proposal**
- **Terms of Reference**
- **Draft Contract**
 - **General Conditions**
 - **Special Conditions**

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Selection of Consultants

Submission and Evaluation of Proposals

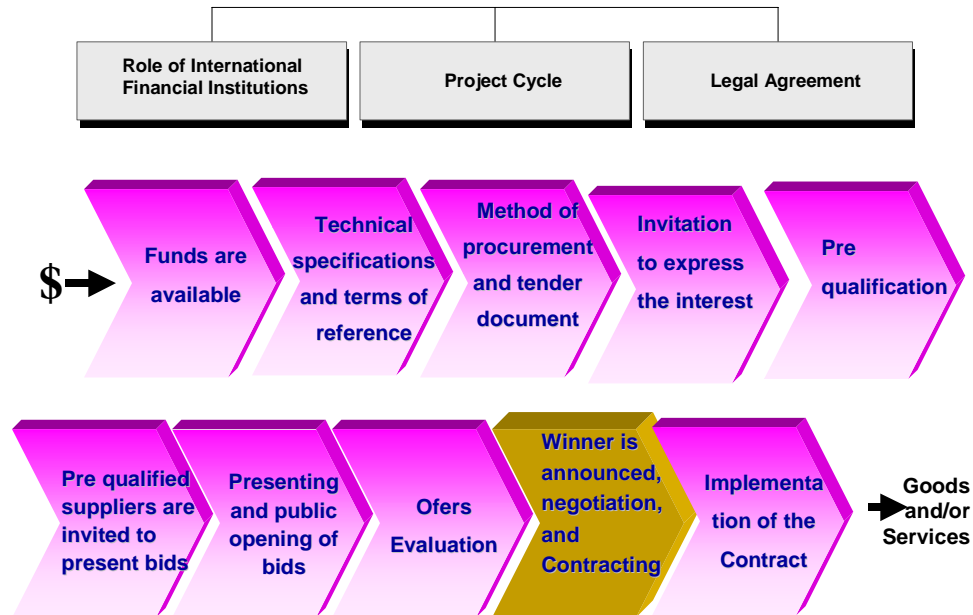
- Clarifications should be sent to firms before the deadline of proposal's submission. In case of major changes, the deadline should be postponed.
- System with two envelopes – technical and Financial proposals in two separate envelopes, that should be closed sealed
- Only the envelope with the technical proposal is opened immediately after the deadline for proposal's submission.
- The envelope with the Financial proposal is kept closed in a saved place.
- Public opening of Financial proposals after the completion of technical evaluation
- Evaluation Commission: 3 - 5 specialists of the sector
- Independent evaluation by each member of commission
- Evaluation based on criteria and sub criteria defined in advance

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Contract and its Implementation

1. **Contract signing**
2. **Definition of Contract**
3. **Form of Contract**
4. **Contract Documents**
5. **Implementation of Contract**
6. **Force Major**
7. **Letter of Credit**
8. **Guarantee of Implementation**
9. **Disagreement**
10. **FIDIC Contract**

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Contract and its Implementation

1. CONTRACT SIGNING

- Contractor (Employer, Client) should:
 - Sign the contract within the period of offer's validity
 - With the firm that has present the offer evaluates as the lowest
 - That fulfills the standards of capacity and financial resources
- During the Contract signing the winner should not be asked to:
 - Lower the price
 - Undertake works that are not included in tender documents
 - Change the offer

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Contract and its Implementation

The documents of Contract should precisely define:

- **The Purpose of work to be done**
- **Goods to be circulated**
- **The Rights and Obligations of Buyers (Employers, Clients) and those of the Suppliers (Contractor, Consultant)**
- **Functions and authority of the Engineer or Architect (if involved), employed by the employer to supervise and manage the contract**
- **Despite the General Conditions, the contract should include Special Conditions that are related to the type and venue of the project.**

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Contract and its Implementation

2. DEFINITION OF THE CONTRACT

A CONTRACT IS AN AGREEMENT BETWEEN TWO OR MORE PARTIES, WHERE EACH PARTY IS ENGAGED TO CARRY OUT OR NOT SOMETHING: A TRANSACTION THAT INVOLVES TWO OR MORE INDIVIDUALS, WHERE EACH OF THEM HAS RECIPROCAL RIGHTS TO REQUIRE IMPLEMENTATION OF COMMITMENTS.

(Jack Friedman, Dictionary of Business Terms)

The contract should be prepared based on the common equity and profitability

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Contract and its Implementation

3. FORM OF THE CONTRACT

- **In Force:**
 - **At the moment of announcement for contract signing (goods)**
 - **At the moment of Contract signing by both parties**
- **The date of Contract In Force is related to the time of goods circulation or work's performance, guarantee Period, bank Guarantee, etc. It should be precisely defined.**
- **Law Applicable**
 - **Governs and interpret relations between parties in the contract**
 - **Law of the buyer's country, or another law agreed by parties**

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Contract and its Implementation

4. DOCUMENTS OF THE CONTRACT

- **Form of the Contract**
- **General Conditions of the Contract**
- **Special Conditions of the Contract**
- **Offer (where the offers agrees to act in accordance to the Tender Documents) defines the prices, the contract implementation period, ensures contract's bank guarantee, and defines offer's validity.**
- **Unit and total prices per each item**
- **Technical Specifications**
- **Notification on contract signing**

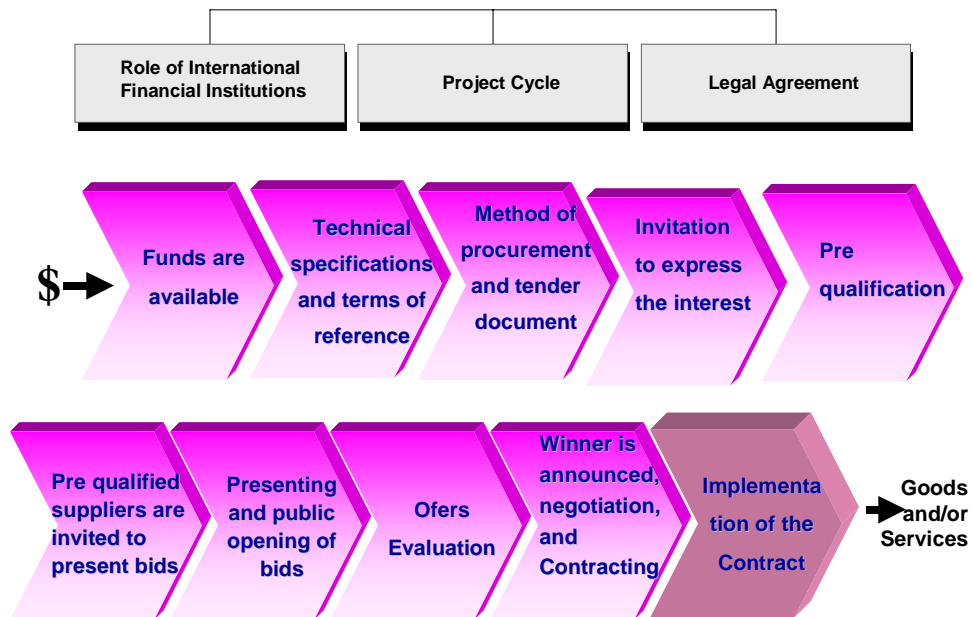
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Contract and its Implementation

Preparation of the Contract

- Each Contract is unique
- Both parties should agree on the Contract Terms
- Preparation based on equity and reciprocal profit
- Preparation in accordance to the Law applicable
- Legal gaps are eliminated in maximum (use of the standards)
- Detail cognition of Contract's clauses

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Contract and its Implementation

5. IMPLEMENTATION OF THE CONTRACT

Each contract detail should be understand, in order to have the situation under control.

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Contract and its Implementation

Supplier's Obligations(Contractor, Consultant)

- **To circulate goods, works or services (where, when, and how should be specified in the Clauses of the Contract)**
- **To submit all required documents**
- **To transfer the ownership Title**
- **To respect the technical specifications**
- **To ensure that goods or services are free off any obligation from a third party (Patent, License etc.)**

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Contract and its Implementation

Buyer's Obligations (Employer, Client)

- To check within a reasonable time, if goods, works and services are conform to the contract.
- To hand over goods, works and services as described in the contract
- To pay the price of goods, works and services as described in the contract

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Contract and its Implementation

The contract should include clauses related to:

- Indemnity for breaking the contract
- Closure of the contract in the case of non execution or un-capability to execute the contract
- Force Major: in case if one of the parties fails to fulfill the obligations due to reasons that are out of its control
- The Contract should precisely define the moment of risk, of goods damage or lost from supplier to buyer. Incoterms (CIP, CIF, EXW, FOB etc)

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Contract and its Implementation

6. FORCE MAJOR

- Force major is called any unforeseen event, out of Supplier or Contractor control, which does not constitute a failure for the fulfillment of obligations
- Options:
 - To use a general clause that defines Force Major
 - To specify in detail cases that shall be considered as Force major (War, rebelling, strike, confiscation, earthquake, volcano, flooding, etc.)
- In any case, party's obligations should be included in the contract, in order to try eliminate obstacles in the implementation of obligations, and cooperate in the damage limitations.
- Party, damaged by a Force Major, should inform the other party within a reasonable time.
- After the notification on the Force Major, parties should change the contract in accordance to the new situation

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Contract and its Implementation

7. LETTER OF CREDIT

- Manner of payment, used especially for goods
- Ensures the supplier on the payment performed and reduces the transaction cost
- Parties in the Letter of Credit:
 - Buyer applies for Letter of Credit at a Bank that is located in its territory (Issuing Bank)
 - Bank that issues the Letter of Credit
 - The Beneficiary of the Letter of Credit (Supplier)
 - Correspondent and Confirming Bank, that is located at Supplier's territory
- The opening of the LC consists in the announcement of Bank to the Supplier that a LC is open to its favor. This provides the total of the LC, validity period of LC, terms and conditions of payment. LC is payable at the moment of submission to the Bank of the good's circulation document specified in the LC.

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Contract and its Implementation

8. IMPLEMENTATION GUARANTEE

- In the international market it is difficult for the buyer of Goods or Services to evaluate precisely the professional capability and financial capacity of Contractor. Thus, he requires to have a guarantee in Supplier's implementation capability.
- Purpose of Implementation Guarantee: to ensure that the beneficiary will receive the ordered goods, works, or services within the time as defined in the contract.

Manners of the Guarantee

- Performance Guarantee: Is issued by the Bank, covers 10% of the contract's value. Irreversible and unconditional. Payable against first request
- Performance Bond: Usually issued by the insurance companies. Covers up to 100% of the contract's value. Conditional.

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Contract and its Implementation

Bank Guarantee

- Defined as a bank obligation to pay a certain amount of money in case of contract's non execution by a third party.
- Guarantee is an obligation independent from the contractual relations among parties.
- Usually guarantees are irreversible, unconditional, and payable against the first request
- Bank guarantees come under the legislation of the country of issuing bank.

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Contract and its Implementation

9. DISAGREEMENTS

The best way to solve the disagreements is their elimination

- Disagreement's elimination – Direct negotiations between parties in an early phase
- In case a solution is not achieved: in an official letter are defined facts that constitute the break of the contract

Resolution of Disagreements

- Outside experts: Provided by specialized Institutions as the Center of Technical Experts of the International Trade Chamber. The expert does not judge if one party is guilty. The expert assesses the technical conditions of a product, work or service
- Court Process: A proper alternative in case both parties are from the same country
- Arbitral: Appropriate in the case of international trade relations

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Contract and its Implementation

International Arbitral Organizations

- International Chamber of Trade in Paris
- Arbitral Court of London
- American Arbitral Association
- Arbitral Institute of Stockholm

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Contract and its Implementation

Arbitral Rules

- **UNCITRAL - United Nation Commission on International Trade Law**
- **UNCITRAL procedures are a summary of in general accepted principles of the International Arbitral**
- **Applicable by many International arbitral institutions**

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Contract and its Implementation

10. FIDIC CONTRACT

- **For big and complicated Civil Works**
- **Conditions of the Contract for Construction Civil Engineering Works**
- **Prepared by FIDIC – International Federation of Consulting Engineers**
- **The conditions of FIDIC Contract are protected by the copyright. They can be used only with the payment of the copyright obligation.**

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APPENDIX IV

ENGLISH LANGUAGE TRAINING PROPOSAL FOR PPA



U.S. Agency for International Development



RIP - ALBANIA



**Balkans Regional Infrastructure Program
for Water and Transport**



ENGLISH language TRAINING PROPOSAL for the PPA

DECEMBER 2002

Table of Contents

1. Introduction
2. Justification to receive english training
3. PP commitment
4. Proposed English training classes for the PPA
5. Time and Cost for the proposed training for the PPA
6. Financial proposal
Oxford language Center
7. Names and positions for the PPA participants

ENGLISH language TRAINING PROPOSAL for the ppa

1. INTRODUCTION

The National Agency for Public Procurement (PPA) is the main government agency supporting and leading the implementation of procurement and contracting practices in Albania.

The PPA has based its activity on three sectors: a) Procurement Sector; b) Control Sector; and c) Statistics Sector. Each line ministry, the municipalities, and other public entities carry out their procurement through their own procurement commissions. These commissions regulate their activities based on the procurement Laws/Rules/Regulations/and Guidelines set forth by the PPA.

Being a relatively new entity, the PPA staff is in need to strengthen and expand their knowledge and skills regarding procurement, contract planning and management. In order to address these needs, the PPA staff will receive technical assistance (TA) from the World Bank and foreign experts. The TA aims to prepare the PPA staff to be able to understand and operate with international legislation, as well as with the rules and standards on public procurement.

2. JUSTIFICATION TO RECEIVE ENGLISH LANGUAGE TRAINING

At the moment most of the best practices in procurement, as well as reference documents, are in English. Also, the majority of the foreign procurement specialists providing TA are English speakers. A basic working knowledge of the English language by the PPA staff is needed to facilitate and ensure that the technical assistance activities are successful and sustainable.

3. PPA COMMITMENT

Based on the discussions with the PPA staff their commitment in this activity includes:

Participation of all staff members from the three sectors (procurement, statistics, and control). This is a total of 16 persons.

Full participation of the staff after the official working hours (after 4:30 P.M.)

Active and full attendance during the entire period of training course.

Acceptance of periodic assessment on the training development by RIP Albania staff.

Provision of standard procurements documents and relevant materials for the preparation of the English for Special Purposes (ESP) language training course.

4. PROPOSED ENGLISH LANGUAGE TRAINING COURSES FOR THE PPA

The English language training being proposed for the PPA staff will include two phases: (i) **Phase I** is a general language course which will focus on developing basic language skills (listening, speaking, reading and writing). The purpose of the first phase is to bring the language proficiency of the participants to a level that will allow them to profit from the program in the second phase. This training will take place at a language institute where PPA participants will be grouped with the regular students of the institute. (ii) **Phase II** is an English for Special Purposes (ESP) course, which focuses on developing the specific language skills needed by the PPA staff to carry their functions in the areas of procurement, contract planning and management.

There are reputable English institutes available in Tirana offering general English language courses. However, these institutes do not provide courses on English for Special Purposes (ESP). The ESP courses are customized to offer specialized programming to meet the need of businesses and organizations, as well as those of their employees. ESP focuses only in those areas of English which support the particular needs of the of participants' job related language skills. The **Phase II** course will be developed and delivered by two specialists, an Albanian training specialist and an international language specialist. The curriculum, training and reference materials for this course will be developed after a need assessment and the proper standard procurement documents are gathered from the PPA. The standard procurement documents will be used to develop a reference manual for each Sector for the use of the trainees when training is completed.

5. TIME AND COST FOR THE PROPOSED TRAINING FOR THE PPA

Depending on the present proficiency level of the participants, and the intensity of the instruction, Phase I of the training could last from 1.5 months up to 4.5 months. The cost of this phase, including instruction, books, and related fees will range from US\$3, 200 to US\$4,800 for a total of 16 participants.

Phase II will last 1.5 months. The cost of this phase includes the cost of materials which in total is US\$ 400. Also, the preparation and delivery costs of the course based on a total of 70 days (35x2=70days) for the international language specialist and the Albanian training specialist. The specialists will deliver Phase II of the training at the PPA offices and will work with the trainees three times a week applying an on-the-job training approach. Cost for both specialists is \$19,775.-

Further details documenting the Institute's cost and options for the training on Phase I are available in the following box:

“OXFORD” LANGUAGE CENTER:

Contact Person: Ms. Pranvera Hackaj,
Requirements: Pre-test to determine students placement
Working Hours: 8:30 A.M. –7:30 P.M.
Group Size: 8-12 students

The Center offers four types of courses. Each course consists of three or four levels:

- 1.) **English Works**-1.5 months. To be attended for a total of 60 hours. (3 Levels)
- 2.) **Intensive course** - 3.5 months. To be attended everyday (Except Saturday and Sunday). Time: 100 minutes/day or 2 sessions of 50 minutes each. (4 Levels)
- 3.) **Normal course**- 4.5 months. To be attended 3 times/week. Time: 100 minutes/day or two sessions of 50 minutes each. (4 Levels)
- 4.) **Slow course** – 8 months. To be attended 2 times/week. Time: 100 minutes/day or two sessions of 50 minutes each. (4 levels)

COURSES

LEVELS

English Works
A, B, and C

Intensive
A, B, C, and D

Normal
A, B, C, and D

Slow
A, B, C, and D

6. FINANCIAL PROPOSAL

1. PHASE I:

The final cost of Phase I will depend on the pre-test results which will define the language level and course for each participant. Preliminary calculations are provided in the following table:

OXFORD LANGUAGE CENTER			
COURSE AND LEVEL	COST/HOUR/US\$	COST/PARTICIPANT/\$US	TOTAL COST/\$US
English Works (60 hrs)			
A	2.6	160	2,560
B	3.0	180	2,880
C	3.3	200	3,200
Intensive course (117 hrs)			
A	2.1	245	3,920
B	2.3	270	4,320
C	2.5	300	4,800
D	2.5	300	4,800
Normal course (90 hrs)			
A	2.7	245	3,920
B	3.0	270	4,320
C	3.3	300	4,800
D	3.3	300	4,800
Slow course (106 hrs)			
A	2.3	245	3,920
B	2.5	270	4,320
C	2.8	300	4,800
D	2.8	300	4,800

Booz Allen Hamilton, 2003

Table 1: Courses and Level Costs – Oxford Language Center

2. PHASE II:

The cost of Phase II is for the development and delivery of the ESP course and instructional and reference materials. Preliminary calculations are provided in the following table:

ITEM	UNITS	COST/UNIT US\$	TOTAL US\$
Instructional materials	16	25	400
Albanian Training Spec. Course Delivery Course Designing	27 days 8 days	@ 65/day	2,275
International Language Spec. Course Delivery Course Designing	27 days 8 days	@ 500/day	17,500.-

Booz Allen Hamilton, 2003

Table 2: Costs of ESP Delivery Courses

7. NAMES AND POSITIONS OF THE PPA PARTICIPANTS

Nr	NAME	POSITION
1.	Behar ZENEL	Director
2.	Loreta KRIQI	Chief of Procurement Sector
3.	Lizata ZHUPA	Economist
4.	Alma DEDE	Economist
5.	Kelmend DULLI	Construction Engineer
6.	Franklin RRELI	Lawyer
7.	Greta PAGRIA	Lawyer
8.	Artan TABAKU	Chief of Audit Sector
9.	Merita ZEQAJ	Architect
10.	Alma DIMO	Lawyer
11.	Shkelqim	Economist
12.	Rifat ALIU	Chief of Statistics Sector
13.	Evis SHEHU	Accountant
14.	Alma MINO	Economist
15.	Gladiola DILKO	Director's Assistant
16.	Jeta MUCOLLARI	Archivist

Booz Allen Hamilton, 2003

Table 3: Names and Positions of the PPA Participants